





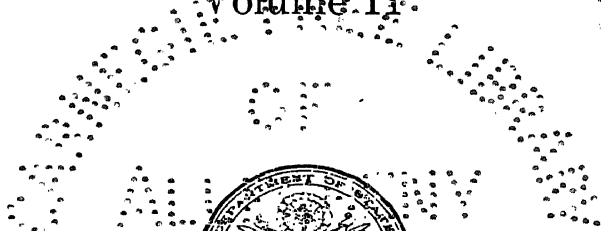


Papers Relating to the  
Foreign Relations  
of the  
United States  
1930

(In Three Volumes)

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Dec. 27	<i>To the Chinese Legation</i> Recapitulation of correspondence; concurrence in view that matter can be settled by negotiation.	500
Dec. 27 (448)	<i>To the Minister in China (tel.)</i> Transmittal of memorandum given to the Chinese Legation; instructions to give text to Foreign Minister and to inform interested colleagues of its tenor.	502
Dec. 29 (450)	<i>To the Minister in China (tel.)</i> Information that the Chinese Minister has expressly requested that U. S. Minister give to the Foreign Minister a copy of the Department's December 27 memorandum.	503
Dec. 29 (331)	<i>To the Ambassador in Great Britain (tel.)</i> Résumé of recent negotiations, including Department's memorandum to the Chinese Legation December 27; and instructions to inform the Foreign Office.	503
Dec. 31 (334)	<i>To the Ambassador in Great Britain (tel.)</i> Information that the Department believes that the opportunity for concluding new treaties is better now than it will be later, and that it is working on a revision of the drafts of June 4 and October 28 with a view to making a new proposal; request for Foreign Office comments.	504
Dec. 31 (452)	<i>To the Minister in China (tel.)</i> Information set forth in Department's 334 to the Ambassador in Great Britain; Department's intention to confer with the British through the Embassy in London; instructions to inform British Legation; request for comments.	505

## CHINA

## JURISDICTION OVER AMERICAN CITIZENS IN CHINA

Date and number	Subject	Page
1929 Sept. 13 (869)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Account of the facts in the case of the attempt of the Nanchang authorities to arrest Dr. Walter Libby, of the Nanchang General Hospital of the Methodist Mission, on a charge of having caused the death of a Chinese boy; request that the Nanchang authorities be instructed to desist from their efforts to take direct jurisdiction over this American citizen or the hospital, an American institution.	505
Oct. 31	<i>From the Minister in China to the Consul General at Hankow</i> Opinion that it is not necessary to comment to Dr. Libby on his action in allowing judges of the Chinese court to visit the hospital and question him, since no charges were made against Dr. Libby, the case being against the Chinese superintendent of the hospital.	507
1930 Feb. 5 (106)	<i>From the Minister in China (tel.)</i> From Nanking, February 4: Report of case in which Mr. Albert H. Smit was detained by the Tungchow police as the result of an automobile accident in which a Chinese pedestrian was killed; information that Mr. Smit is out on bond and that Consulate has advised him to report matter to U. S. District Attorney at Shanghai; suggestion that Legation request District Attorney to institute proceedings to forestall possible Chinese attempt to take jurisdiction. To Nanking: Instructions to consult District Attorney and report.	507
Feb. 6 (108)	<i>From the Minister in China (tel.)</i> From Shanghai: District Attorney's opinion that the facts do not warrant Mr. Smit's arrest or prosecution on a charge of manslaughter.	508
Feb. 12 (122)	<i>From the Minister in China (tel.)</i> From Nanking: Report that Mr. Smit went to Tungchow on 11th inst. to see Chinese officials; request that Mr. Smit be sent to Tungchow. Information that Consul Meyer is being sent to Tungchow at once.	509
Feb. 15 (131)	<i>From the Minister in China (tel.)</i> Telegram from Consul Meyer (text printed) stating that Tungchow court has imposed fine of \$100 on Mr. Smit and that Consul has advised him not to pay it until matter is referred to Legation. Intention to suggest to Consul at Nanking that he might in his official capacity hold a preliminary investigation; proposal to address a note in the matter to the Foreign Minister; request for instructions.	509
Feb. 17 (63)	<i>To the Minister in China (tel.)</i> Approval of proposed suggestion to Consul at Nanking; desire that Mr. Smit not pay fine and that he keep out of Tungchow district pending settlement; disapproval of proposed note to the Foreign Minister; intention, however, to take up matter with the Chinese Minister.	510
Feb. 17	<i>To the Chinese Legation</i> Explanation of Mr. Smit's case, and expression of hope that it will not create an issue between the two countries.	511

CHINA

JURISDICTION OVER AMERICAN CITIZENS IN CHINA—Continued

Date and number	Subject	Page
1930 Feb. 18 (137)	<i>From the Minister in China (tel.)</i> District Attorney's opinion that prosecution of Mr. Smit is not warranted and that more ill feeling would be stirred up by an inevitable acquittal than by a failure to prosecute; Legation's adherence to the view that Consul at Nanking could properly hold a fresh investigation.	512
Feb. 20 (71)	<i>To the Minister in China (tel.)</i> Concurrence in view that Consul at Nanking could properly hold a fresh investigation.	512
Feb. 21 (10)	<i>From the Consul at Nanking (tel.)</i> Report that Mr. Smit has proceeded to Shanghai without paying fine; assertion that if District Attorney is willing to initiate American court proceedings, Consul will hold preliminary hearing provided Mr. Smit returns to Nanking jurisdiction.	513
Mar. 1 (162)	<i>From the Minister in China (tel.)</i> Interview with the Foreign Minister on February 26 in which the Foreign Minister promised to make inquiry into Mr. Smit's case.	513
Mar. 4 (171)	<i>From the Minister in China (tel.)</i> From Shanghai: Report that Mr. Smit had been uncertain as to what his legal status was in view of the Chinese mandate of December 28, 1929; suggestion by the Consul General at Shanghai that a statement be issued to all missionary societies setting forth U. S. position regarding mandate.	514
Mar. 8 (32)	<i>To the Minister in China</i> Commendation of the Legation and the Consul General at Hankow in connection with the decision of the procurator of the Nanchang District Court, October 18, 1929, that the Court had no jurisdiction over Dr. Libby.	515
Mar. 9 (184)	<i>From the Minister in China (tel.)</i> Suggestions in regard to investigation in Smit case.	515
Mar. 11	<i>Memorandum by the Minister in China</i> Conversation with District Attorney, in which it was agreed that nothing should be done in regard to Mr. Smit's motorcar license which the authorities had cancelled, since it is within their province to issue or refuse to issue a motorcar license without giving cause.	516
Mar. 11 (6)	<i>To the Consul at Nanking (tel.)</i> For the Minister: Hope of both Governments that the Smit case can be settled without further publicity.	516
Mar. 12 (92)	<i>To the Minister in China (tel.)</i> Statement which the Department is transmitting to missionary interests and desires the consular officers to communicate to Americans in China (text printed) setting forth U. S. position with regard to the Chinese mandate of December 28, 1929.	517
Apr. 7 (252)	<i>From the Minister in China (tel.)</i> Report on present status of Smit case.	518

## CHINA

## JURISDICTION OVER AMERICAN CITIZENS IN CHINA—Continued

Date and number	Subject	Page
1930 May 16 (6498)	<i>From the Consul General at Shanghai to the Minister in China</i> Report of an incident involving the question of jurisdiction over U. S. citizens in which the Chinese authorities seized the motorcar license of the commander in chief of the U. S. Asiatic Fleet but returned it after the matter was taken up by the Consulate General.	518
June 17 (147)	<i>To the Minister in China</i> Assertion that the Department[would]not[be] willing to concede to Chinese officials the unquestioned authority "without giving cause" to deprive U. S. citizens of the right to use their motor vehicles; request for more detailed statement of the Minister's opinion on the subject.	520
Sept. 5 (440)	<i>From the Minister in China</i> Clarification of position in regard to the right of the Chinese to cancel or refuse to issue a motorcar license.	521

## DUAL NATIONALITY OF AMERICAN CITIZENS OF CHINESE DESCENT

1930 Jan. 18 (1455)	<i>To the Chargé in China</i> Opinion that the present is not a suitable time for discussing with the Chinese Government the question of a possible agreement concerning dual nationality.	522
June 23 (206)	<i>To the Minister in China (tel.)</i> Telegram from Bessie B. Wong of San Francisco (text printed) in regard to the arrest in Peiping of her father, Wong Bock Yue, an American citizen. Instructions to investigate facts and take appropriate steps.	522
June 27 (507)	<i>From the Minister in China (tel.)</i> Memorandum sent to local Diplomatic Bureau of Marshal Yen's Headquarters, June 21 (text printed), in regard to Mr. Wong; statements made by the Diplomatic Bureau to the effect that Mr. Wong is a Chinese citizen; request for instructions.	523
June 27 (216)	<i>To the Minister in China (tel.)</i> Instructions to assert Mr. Wong's U. S. citizenship and demand custody of his person.	524
June 28 (514)	<i>From the Minister in China (tel.)</i> Report that demand has been presented.	524
July 11 (565)	<i>From the Minister in China (tel.)</i> Diplomatic Bureau's reply (text printed) giving evidence of Mr. Wong's Chinese nationality; enumeration of facts which cause the Legation to question the advisability of continuing to assert Mr. Wong's U. S. citizenship.	524
July 17 (239)	<i>To the Minister in China (tel.)</i> Opinion that the Legation would not be warranted in further contesting jurisdiction over Mr. Wong, but that it should request information concerning the treatment accorded to him.	525

## CHINA

## DUAL NATIONALITY OF AMERICAN CITIZENS OF CHINESE DESCENT—Continued

Date and number	Subject	Page
1930		
Aug. 1 (651)	<i>From the Minister in China (tel.)</i> Report on treatment accorded Mr. Wong.	526
Oct. 2 (874)	<i>From the Minister in China (tel.)</i> Information that Mr. Wong, who was released shortly after the turnover of Peiping, has called to express his gratitude.	526

JURISDICTION FOR QUARANTINE PURPOSES OVER AMERICAN MERCHANT VESSELS  
IN CHINESE PORTS

1930		
July 14	<i>Memorandum by the Minister in China</i> Conversation with the Director of the Chinese National Quarantine Service regarding the new service which he is organizing.	527
July 26	<i>From the Consul General at Shanghai (tel.)</i> Report on new quarantine regulations whereby the Chinese Government seeks to take over the quarantine service of Shanghai; opinion that their enforcement is beyond the capacity of the Chinese authorities; suggestion that the Chinese authorities be notified that the present regulations must remain in effect until replaced by others arrived at by agreement.	527
July 31	<i>To the Consul General at Shanghai (tel.)</i> Instructions for reply to the Chinese authorities to the effect that under the existing treaties, jurisdiction over U. S. merchant vessels visiting Chinese ports is vested in officials of the U. S. Government, but that the U. S. Government is prepared to discuss the revision of present agreements by negotiation; instructions to repeat to the Legation.	529
Aug. 4	<i>From the Consul General at Shanghai (tel.)</i> To the Legation: Report on a meeting of the consular body on August 1 and the attitudes adopted by interested colleagues.	530
Aug. 7	<i>From the Consul General at Shanghai (tel.)</i> Information that a reply in the sense of the Department's instructions has been sent to the Director of Quarantine.	531
Aug. 11 (689)	<i>From the Minister in China (tel.)</i> Information that a reply in the sense of the Department's instruction is being drafted for transmittal to the Foreign Ministry.	531
Sept. 10	<i>From the Consul General at Shanghai (tel.)</i> Request for instructions as to whether the Consulate General should visa fumigation certificates signed by a National Quarantine Service officer but not countersigned by the harbor master; understanding that the British are tacitly accepting the new service.	531
Sept. 12	<i>To the Consul General at Shanghai (tel.)</i> Instructions not to authenticate certificates issued by National Quarantine Service officers but to request U. S. Public Health Service officer at Shanghai to issue certificate after satisfying himself that the regulations have been fulfilled.	53



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JURISDICTION FOR QUARANTINE PURPOSES OVER AMERICAN MERCHANT VESSELS  
IN CHINESE PORTS—Continued

Date and number	Subject	Page
1930 Sept. 22 (839)	<i>From the Minister in China (tel.)</i> Information that interested colleagues have decided not to inform the Nanking Government of an acceptance of the new regulations but to let them tacitly be enforced and watch the results; opinion that the United States should not follow a different policy; statement that no reply has been made to the Foreign Ministry and none will be made unless the Department so instructs.	533
Sept. 27 (336)	<i>To the Minister in China (tel.)</i> Authorization to follow procedure set forth in telegram No. 839 of September 22.	534
Sept. 29 (268)	<i>To the Minister in China</i> Statement of the principles involved in the Department's reply to the September 10 telegram from the Consul General at Shanghai.	534
Nov. 11 (391)	<i>To the Minister in China (tel.)</i> Decision that for the present Chinese quarantine officers may be tacitly permitted to board U. S. vessels arriving at Shanghai so long as they do not interfere with the U. S. Public Health Service officer.	536
Nov. 14 (986)	<i>From the Minister in China (tel.)</i> From Shanghai, November 13: Report of instruction given shipping companies, who do not anticipate any serious difficulties.	536
Dec. 19	<i>To the Consul General at Shanghai</i> Opinion that the U. S. Public Health Service officer at Shanghai should not countersign the certificates of the Chinese officer but that he should issue his own fumigation certificates.	537

APPLICATION OF CHINESE JURISDICTION TO AMERICAN MISSIONARY, EDUCATIONAL,  
AND MEDICAL ENTERPRISES AND PERSONNEL IN CHINA

1929 Nov. 15 (1402)	<i>To the Minister in China</i> Opinion that U. S. citizens and organizations in China would not be justified in contesting the right of Chinese authorities to prescribe the method in which schools for the secular education of the Chinese shall be conducted; instruction that consular officers shall be so informed.	538
1930 June 5 (129)	<i>To the Minister in China</i> Statement of principles in regard to the conduct of medicine and the practice of medicine by U. S. citizens and organizations in China.	541
Aug. 20 (222)	<i>To the Minister in China</i> Opinion that U. S. missionaries and churches would be justified in refusing to make voluntary contributions equal in amount to the Soochow house tax if Chinese citizens and organizations similarly situated are exempted; suggestion, however, that consular officers should attempt to effect equitable and satisfactory adjustments.	542

## CHINA

APPLICATION OF CHINESE JURISDICTION TO AMERICAN MISSIONARY, EDUCATIONAL,  
AND MEDICAL ENTERPRISES AND PERSONNEL IN CHINA—Continued

Date and number	Subject	Page
1930 Dec. 3 (325)	<i>To the Minister in China</i> Statement, in connection with the Chinese attempt to collect a military fodder tax from a Seventh Day Adventist Mission near Mukden, that the Consulate General should protest against the imposition of any military tax on U. S. citizens or institutions in China.	543
Dec. 8 (327)	<i>To the Minister in China</i> Department's interpretation of treaty provisions in regard to the conduct of schools by American citizens in China.	544

ATTEMPT BY CHINESE AUTHORITIES TO REQUIRE REGISTRATION OF FOREIGN  
CORPORATIONS DESIRING TO BRING SUIT IN CHINESE COURTS

1930 June 26	<i>From the Consul General at Shanghai (tel.)</i> To the Legation: Report of a ruling of the Special District Court of Shanghai in connection with the Japanese firm Mitsui Bussan Kaisha which, if sustained, will force all foreign companies to be registered with the Ministry of Commerce in order to bring suit in Chinese courts.	546
July 3	<i>From the Consul General at Shanghai (tel.)</i> To the Legation: Information that the ruling regarding the Japanese firm was not modified in the June 28 hearing; press reports of articles to be included in supplemental regulations soon to be issued (text printed).	546
July 12	<i>From the Consul General at Shanghai (tel.)</i> To the Legation: Statement by the President of the Shanghai Special District Court that all firms will be required to register before bringing suit in court; information that a case brought by the Singer Sewing Machine Company in the Kiangning District Court was dismissed because the firm was not registered; and request for early instructions in view of number of inquiries and importance of question.	548
July 14	<i>From the Consul General at Shanghai (tel.)</i> To the Legation: Information that during the last three weeks several suits have been brought by an American firm in the Shanghai Special District Court and that two have been decided in favor of the American plaintiff; reiteration of request for early instructions.	549
July 14 (573)	<i>From the Minister in China (tel.)</i> Inquiry as to whether the Department feels in a position to make a ruling.	549
July 16 (579)	<i>From the Minister in China (tel.)</i> From Nanking, July 14: Information that on July 12 the Singer Sewing Machine Company received a summons to appear before the Kiangning District Court on July 18 for a hearing of its case, and that the Consulate has advised the Company to go to court and report developments.	550

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## ATTEMPT BY CHINESE AUTHORITIES TO REQUIRE REGISTRATION OF FOREIGN CORPORATIONS DESIRING TO BRING SUIT IN CHINESE COURTS—Continued

Date and number	Subject	Page
1930 July 16 (237)	<i>To the Minister in China (tel.)</i> Statement that Department desires to await receipt of summary of new regulations before expressing opinion.	550
July 17 (585)	<i>From the Minister in China (tel.)</i> Information from the Japanese Legation that a further hearing of the Mitsui case will take place July 30 and that meanwhile the Chargé has been instructed to make vigorous representations.	551
July 18 (588)	<i>From the Minister in China (tel.)</i> Report from Consul at Harbin concerning foreign cases pending in Chinese courts of Harbin.	552
July 19 (594)	<i>From the Minister in China (tel.)</i> From Nanking, July 18: Report on Singer Company's case; information that judgment will be given on July 21.	552
July 22	<i>From the Consul General at Shanghai (tel.)</i> Transmittal of summary of new regulations.	553
Aug. 7 (265)	<i>To the Minister in China (tel.)</i> Opinion that U. S. corporations are "citizens of the United States" and entitled by treaty to bring suits in Chinese courts; statement that further consideration will be given to the general question of registration of U. S. firms upon receipt of full text of new regulations.	554
Aug. 7 (679)	<i>From the Minister in China (tel.)</i> From Nanking: Report that decision was in favor of Singer Sewing Machine Company and did not mention question of registration.	555
Aug. 16 (2172)	<i>From the Consul at Harbin to the Minister in China</i> Information that the U. S. firm G. A. Bashkiroff and Company has been informed that to continue its suit it must either register within 30 days or be represented by an individual having a certificate from the Consulate that he represented the shareholders of the company.	555
Sept. 26 (266)	<i>To the Minister in China</i> Decision, after consideration of the full text, that application of the new regulations to U. S. firms would violate rights granted to U. S. citizens in existing treaties; and instructions to point out to U. S. firms the loss of extraterritorial status involved in registration, and to protest any attempt by Chinese to compel such registration.	556
Oct. 27 (290)	<i>To the Minister in China</i> Reference to case of The Texas Company, pointing out that Department's objection to the requirement of registration is based on the ground that enforcement of the requirement would be in derogation of extraterritorial rights of corporations involved.	559

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PRESS RESTRICTIONS BY CHINESE AUTHORITIES AFFECTING AMERICAN CITIZENS  
IN CHINA

Date and number	Subject	Page
1930		
Feb. 12	<i>From the President of the United Press (tel.)</i> Report that a postal ban has been applied to the <i>Shanghai Evening Post</i> (American) for over three months; request for assistance.	559
Feb. 14 (58)	<i>To the Minister in China (tel.)</i> Instructions to take such action on behalf of the <i>Shanghai Evening Post</i> as is proper and expedient.	560
Feb. 17 (135)	<i>From the Minister in China (tel.)</i> Report of representations made on behalf of the <i>Shanghai Evening Post</i> .	560
Feb. 28	<i>From the Consul General at Canton (tel.)</i> Conversation with local official in regard to intention of Civil Governor to expel Mr. G. Edward Lyon because of news despatch offensive to local Government; information that Mr. Lyon has promised to express regret and refrain from such action in the future.	561
Mar. 1	<i>From the Consul General at Canton (tel.)</i> Information that local authorities are satisfied with Mr. Lyon's expression of regret.	562
Mar. 4 (82)	<i>To the Minister in China (tel.)</i> Approval of action by Consul General at Canton in regard to Mr. Lyon.	562
Mar. 26	<i>From the Consul General at Shanghai (tel.)</i> Report that the postal ban on the <i>Shanghai Evening Post</i> was removed March 23.	563
June 6 (133)	<i>To the Minister in China</i> Opinion, in connection with Mr. Lyon's case, that caution should be exercised against giving ground for the belief that the U. S. Government will be able to obtain for U. S. newspaper men in China the same freedom of action they would enjoy in the United States.	563
June 23 (484)	<i>From the Minister in China (tel.)</i> Conversation in which the Foreign Minister stated that, although he realized that deportation was impossible, he must ask for all possible assistance in having Mr. Hallett Abend sent out of the country.	564
July 12 (566)	<i>From the Minister in China (tel.)</i> From Nanking, July 9: Rules governing newspaper correspondents (text printed) which the Foreign Ministry states will be sent to various consulates.	564
July 16 (581)	<i>From the Minister in China (tel.)</i> Information that Marshal Yen has restored Hallett Abend's press privileges. (Footnote: Information as to Mr. Abend's satisfactory adjustment of his status vis-à-vis the Nanking Government.)	565

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PRESS RESTRICTIONS BY CHINESE AUTHORITIES AFFECTING AMERICAN CITIZENS  
IN CHINA—Continued

Date and number	Subject	Page
1930 Sept. 23 (330)	<i>To the Minister in China (tel.)</i> Suggestion that the Legation refrain from accepting press messages for transmittal where the sole object is to evade censorship.	566
Dec. 1 (1020)	<i>From the Minister in China (tel.)</i> Report by Reuter at Nanking, November 30 (text printed), on new press laws adopted by the Legislative Yuan.	566

## PROTECTION OF TITLE DEEDS TO REAL PROPERTY OF AMERICANS IN CHINA

1929 Oct. 15 (885)	<i>From the Minister in China (tel.)</i> Advice that instructions desired by the Consul General at Hankow in regard to the latest demand by Chinese authorities in connection with the reexamination of title deeds are being withheld pending receipt of Department's instructions with regard to the whole matter.	567
Nov. 6 (363)	<i>To the Minister in China (tel.)</i> Note for the Foreign Ministry (substance printed) setting forth principles which the U. S. Government considers that the National Government in its attempt to bring about uniformity in title deeds should apply so that the treatment accorded U. S. citizens may be fair and just.	567
1930 Jan. 24 (76)	<i>From the Chargé in China (tel.)</i> Note from the Foreign Minister, January 10 (text printed), stating that the American suggestions would complicate the existing system and produce no benefit.	569
Feb. 8 (50)	<i>To the Minister in China (tel.)</i> Instructions to inform the Foreign Ministry that the U. S. Government reserves the right to make representations if the rights of any American holder of real property should be damaged by any action taken in disregard of the principles set forth.	569
Apr. 19	<i>From the American Minister in China to the Senior Minister in China</i> Views in regard to a letter from the Senior Consul on the subject of the changes contemplated by the Chinese authorities in the procedure of issuing title deeds.	570
Apr. 28	<i>Memorandum by the Minister in China</i> Conversation with the American Consul General and Senior Consul at Shanghai in regard to the question of transfer fees on titles transferred between foreigners of the same nationality.	572
July 3 (165)	<i>To the Minister in China</i> Instructions in regard to certain restrictions placed by the Chinese authorities upon the transfer of real property held by foreigners in Tsingtao.	572

## CHINA

## PROTECTION OF TITLE DEEDS TO REAL PROPERTY OF AMERICANS IN CHINA—Continued

Date and number	Subject	Page
1930 Dec. 17 (682)	<i>From the Minister in China</i> Information that the Consul General at Shanghai has been authorized to begin the use of the new deed forms and otherwise to acquiesce in the new procedure governing the issuance of title deeds, without, however, formally recognizing the Chinese proposals.	574

## RESERVATION OF AMERICAN RIGHTS WITH RESPECT TO CHINESE REGULATIONS AFFECTING FOREIGN MISSIONARY PROPERTY

1930 Mar. 7 (28)	<i>To the Minister in China</i> Instructions to protest Chinese ruling that foreign missionary societies may no longer lease land in perpetuity, since the ruling violates U. S. treaty rights; authorization, however, to defer protest until a case arises.	575
Sept. 22 (159)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Protest regarding the refusal of the Magistrate to register a lease in perpetuity on certain lands at Jukao, Kiangsu, by the Christian Reformed Church Mission.	575
Sept. 22 (160)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Protest with regard to the difficulties of the Lutheran Board of Missions in securing deeds in perpetuity to property at Kweiteh, Honan, leased and paid for by the Board.	576
Nov. 12 (189)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Renewed protest concerning the leasing of certain land at Jukao, Kiangsu, by the Christian Reformed Church Mission.	577

## DIFFICULTIES IN CHINA OF THE CENTRAL ASIATIC EXPEDITION OF THE AMERICAN MUSEUM OF NATURAL HISTORY

1930 Feb. 27	<i>Memorandum by the Minister in China</i> Conversation with the Foreign Minister in regard to the differentiation between archeological and paleontological finds and the possible removal of the latter by the expedition of the American Museum of Natural History.	578
May 1	<i>Memorandum by the Minister in China</i> Conversation with the Foreign Minister, who stated that everything had been settled in connection with the expedition. (Footnote: Information that the 1930 expedition was the last one, as permission was not granted in 1931 and further attempts were abandoned in 1932.)	580

## CHINA

## EFFORTS FOR THE CONSIDERATION OF AMERICAN CLAIMS OUTSTANDING AGAINST CHINA

Date and number	Subject	Page
1929 Mar. 11 (1138)	<i>To the Minister in China</i> Opinion that claims arising from the destruction or looting of American-owned goods in the hands of native agents should continue to be presented to local authorities by Consuls, but that they should not be presented to the National Government until a plan has been worked out for the consideration of all claims.	580
1930 Feb. 3 (1467)	<i>To the Chargé in China</i> Suggested protocol of agreement regarding claims of U. S. citizens against the Chinese Government (text printed) for the consideration of the Minister with a view to possible early negotiations on the subject.	581
Feb. 12	<i>From the American, British, and French Representatives in China to the Chinese Minister for Foreign Affairs</i> Necessity, in view of the recent default, of pointing out that no means have been devised to meet the ever increasing accumulation of arrears in the service of the Hukuang Railways loan; urgent request that steps be taken to provide the necessary funds.	586
Mar. 18 (47)	<i>From the Ambassador in Japan (tel.)</i> Report that a pending Sino-Japanese customs agreement includes a provision for China to call a conference of creditors by October 1 for effectuating the consolidation of the unsecured and inadequately secured obligations of China.	587
Mar. 19 (51)	<i>To the Ambassador in Japan (tel.)</i> Inquiry as to whether the provision is for a conference of representatives of all creditors or of only Japanese creditors.	587
Mar. 20 (52)	<i>From the Ambassador in Japan (tel.)</i> Report that provision is for a conference of all creditors, foreign and Chinese.	587
Mar. 24 (100)	<i>From the Minister in China</i> Request for Department's views in regard to the Standard Oil Company claim against Yunnan Province for the looting of its agency by the military; opinion that this and other claims can best be settled by some such commission as that envisaged in Department's 1467 of February 3.	588
Apr. 3 (247)	<i>From the Minister in China (tel.)</i> Expression by the American group representative of the hope that action will be taken at the earliest opportunity in regard to the Hukuang Railways loan situation; request for instructions.	589
Apr. 8 (124)	<i>To the Minister in China (tel.)</i> Authorization to urge the National Government to take some practical measure for the relief of U. S. creditors; transmittal of suggested note.	590
Apr. 15 (147)	<i>From the Minister in China</i> Note sent to the Foreign Minister, April 12 (text printed), in accordance with Department's authorization.	590

## CHINA

## EFFORTS FOR THE CONSIDERATION OF AMERICAN CLAIMS OUTSTANDING AGAINST CHINA—Continued

Date and number	Subject	Page
1930		
Apr. 17 (156)	<i>From the Minister in China</i> Information that the Hukuang Railways loan group banks have written to the Minister of Railways expressing the hope that if likin is abolished the Hukuang loan will become a charge upon the customs revenues.	592
May 14	<i>To the Continental Illinois Bank and Trust Company, of Chicago</i> Statement that the Department has taken up with the Minister in China the Company's request for assistance to prevent the threatened destruction of the security assigned to a loan made to the Chinese Government in 1911.	593
May 14 (113)	<i>To the Minister in China</i> Suggestion that the Minister consider the advisability of approaching the Chinese Government in regard to the Continental Illinois Bank and Trust Company loan without awaiting the adoption of a general plan.	593
May 21 (118)	<i>To the Minister in China</i> Assertion, in connection with the Standard Oil Company claim, that the Department sees no reason to recede from its position set forth in instruction No. 1138 of March 11, 1929; and Department's views on related points.	595
June 19 [209] (471)	<i>From the Minister in China (tel.)</i> Advice that in view of the military situation the time has not been considered opportune for taking up the matter of a claims commission as set forth in the Department's No. 1467 of February 3; Foreign Minister's statement that a Chinese commission has been formed under Mr. T. V. Soong which it is hoped will be ready to meet foreign claimants by October 1.	597
June 24 (286)	<i>From the Minister in China</i> Information that the Hukuang Railways loan group banks have made another attempt to obtain assurance that the loan will become a charge on the customs revenues, but that the Chinese Government avoids committing itself.	598
June 26 (296)	<i>From the Minister in China</i> Opinion that there would be no objection to inviting the attention of the Foreign Minister "for purposes of record" to the Continental Illinois Bank and Trust Company's claim.	599
July 7 (171)	<i>To the Minister in China</i> Agreement with the Minister's view as set forth in No. 471, of June 19, concerning the postponement of formal negotiations looking toward the settlement of outstanding obligations.	601
Aug. 8 (376)	<i>From the Minister in China</i> Reply to the inquiry by the Consul General at Canton regarding claims for property destroyed by the rebel army (text printed) to the effect that destruction of property by troops in revolt constitutes a valid basis for a claim against the central authorities.	601



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EXECUTION OF PROVISIONS OF THE HUKUANG RAILWAYS LOAN AGREEMENT  
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1930 Oct. 15 (905)	<i>From the Minister in China (tel.)</i> From Hankow, October 1: Report that Mr. Valpy (British), engineer in chief of a section of the Canton-Hankow Railway, has been dismissed by the Ministry of Railways. Inquiry as to whether it would be appropriate to protest with respect to that portion of article 17 of the Hukuang loan agreement which provides that a European and/or American engineer in chief will be employed during the currency of the loan.	609
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## DOMINICAN REPUBLIC

## REVOLUTION IN THE DOMINICAN REPUBLIC

1930 Feb. 24 (11)	<i>From the Minister in the Dominican Republic (tel.)</i> Report that in view of the danger from revolutionists, the Foreign Minister has requested asylum for President Vásquez, his wife, and the Vice President; that the President's wife is now in the Legation and President Vásquez and his party have gone to the fortress.	699
Feb. 24 (12)	<i>From the Minister in the Dominican Republic (tel.)</i> Report that the Vice President has resigned and that the Government promises to annul all amendments to the electoral law made since 1924; information that Mr. Cabot, Third Secretary of Legation, has gone out to try to prevent bloodshed between the revolutionists and the troops sent out to stop them.	699
Feb. 24 (8)	<i>To the Minister in the Dominican Republic (tel.)</i> Request for names of leaders of the revolution and inquiry as to role played by the Army and its commander in chief, Trujillo.	700

## DOMINICAN REPUBLIC

## REVOLUTION IN THE DOMINICAN REPUBLIC—Continued

Date and number	Subject	Page
1930 Feb. 24 (13)	<i>From the Minister in the Dominican Republic (tel.)</i> Names of leaders of the revolution; advice that Trujillo and the Army are true to the President.	700
Feb. 24 (14)	<i>From the Minister in the Dominican Republic (tel.)</i> Advice that the revolutionists are advancing on the city and that a naval vessel should be sent at once; information that Mr. Cabot has proceeded to Santiago.	700
Feb. 25 (15)	<i>From the Minister in the Dominican Republic (tel.)</i> Information that No. 14 was in error and that the revolutionists are not advancing but are awaiting the result of Mr. Cabot's negotiations in Santiago.	700
Feb. 25 (17)	<i>From the Minister in the Dominican Republic (tel.)</i> Names of other leaders of the revolution.	701
Feb. 25 (9)	<i>To the Minister in the Dominican Republic (tel.)</i> Opinion that it would not be wise to send a naval vessel to Santo Domingo in the present circumstances; approval of Legation's use of good offices in the interest of peace.	701
Feb. 25 (18)	<i>From the Minister in the Dominican Republic (tel.)</i> Information that both sides are respecting U. S. lives and property, and that Mr. Cabot has returned with proposals of the leaders of the revolution.	702
Feb. 26 (19)	<i>From the Minister in the Dominican Republic (tel.)</i> Report that the revolutionists have entered the city in violation of their promise to Mr. Cabot.	702
Feb. 26 (20)	<i>From the Minister in the Dominican Republic (tel.)</i> Information that a small British warship will arrive in 20 hours.	702
Feb. 26 (21)	<i>From the Minister in the Dominican Republic (tel.)</i> Basis of agreement suggested to Mr. Cabot by the revolutionary leaders, and advice that the Government is prepared to accept.	703
Feb. 26 (10)	<i>To the Minister in the Dominican Republic (tel.)</i> Approval of action taken; advice that authorization is being sent to offer U. S. good offices, but that nothing should suggest any U. S. involvement in the elections.	703
Feb. 26 (11)	<i>To the Minister in the Dominican Republic (tel.)</i> Authorization to offer good offices.	704
Feb. 26 (22)	<i>From the Minister in the Dominican Republic (tel.)</i> Information that it is now clear that Trujillo has repeatedly betrayed the Government.	704
Feb. 26 (12)	<i>To the Minister in the Dominican Republic (tel.)</i> Opinion that the situation has not developed sufficiently for any instructions to be given; request for more information.	705
Feb. 27 (23)	<i>From the Minister in the Dominican Republic (tel.)</i> Information on political alignments.	705
Feb. 27 (25)	<i>From the Minister in the Dominican Republic (tel.)</i> Terms agreed upon by the President and Estrella Urefia, revolutionary leader, in a meeting at the Legation.	706

## DOMINICAN REPUBLIC

## REVOLUTION IN THE DOMINICAN REPUBLIC—Continued

Date and number	Subject	Page
1930 Feb. 27 (13)	<i>To the Minister in the Dominican Republic (tel.)</i> Information that the British sloop <i>Wistaria</i> is approaching Santo Domingo; opinion that the situation does not warrant the presence of a warship and that it would be very unwise to land forces; authorization to inform British colleague of Department's opinion.	706
Feb. 27 (24)	<i>From the Minister in the Dominican Republic (tel.)</i> Hope that a final agreement will be reached in a conference to be held in the afternoon.	707
Feb. 27 (43)	<i>To the Ambassador in Great Britain (tel.)</i> Repetition of telegram No. 13 sent to the Minister in the Dominican Republic on February 27, and suggestion that the British Government be advised.	707
Feb. 28 (28)	<i>From the Minister in the Dominican Republic (tel.)</i> Information that an agreement has been reached whereby Estrella Urefia will be appointed Secretary of the Interior, following which the President will resign, thus allowing the chief of the revolution to become the Chief of State; advice that the Legation has pointed out the undesirable precedent thus created but has made no objection; hope that no question of recognition will be raised.	708
Mar. 1 (14)	<i>To the Minister in the Dominican Republic (tel.)</i> Advice that inasmuch as all legal forms are to be followed no question of recognition will arise.	708
Mar. 1 (22)	<i>From the Minister in the Dominican Republic</i> More extensive report on the revolutionary movement; opinion that the basic cause of the revolution was the economic depression and that the immediate cause was the knowledge that the Army would tacitly assist the revolutionaries.	709
Mar. 4 (15)	<i>To the Minister in the Dominican Republic (tel.)</i> Commendation on success in helping to bring about a peaceful solution.	717
Mar. 18 (35)	<i>From the Minister in the Dominican Republic (tel.)</i> Information that Trujillo and Estrella have been formally proposed as the Government candidates in the coming elections; President's desire that a statement be made that the U. S. Government would not recognize Trujillo; inquiry as to whether the Department will make or authorize any statement.	717
Mar. 19 (19)	<i>To the Minister in the Dominican Republic (tel.)</i> Department's regret that it cannot authorize suggested statement since it desires to avoid even the appearance of interfering; opinion that the only way to prevent candidacy of Trujillo would be by a personal appeal; and confidential information that the Department expects to recognize Trujillo or any other person coming into office in the coming elections.	718
Mar. 21 (20)	<i>To the Minister in the Dominican Republic (tel.)</i> Further suggestions for a personal appeal to Trujillo.	719
Mar. 21 (37)	<i>From the Minister in the Dominican Republic (tel.)</i> <sup>17</sup> Intention to follow the Department's suggestion.	720

## DOMINICAN REPUBLIC

## REVOLUTION IN THE DOMINICAN REPUBLIC—Continued

Date and number	Subject	Page
1930 Apr. 2 (44)	<i>From the Minister in the Dominican Republic (tel.)</i> Information that the Opposition has nominated Velázquez and Morales.	720
Apr. 7 (48)	<i>From the Minister in the Dominican Republic (tel.)</i> Report that the President and the civil authorities are doing everything possible to maintain order but have no control over the Army.	721
Apr. 22 (55)	<i>From the Minister in the Dominican Republic (tel.)</i> Report of leave of absence or resignation of various members of the Government to run for office.	721
Apr. 23	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Dominican Minister in regard to the candidacy of Trujillo.	721
May 19 (91)	<i>From the Minister in the Dominican Republic</i> Report that Trujillo was elected President and Estrella Vice President.	723
June 16 (107)	<i>From the Chargé in the Dominican Republic</i> Report on various unsuccessful revolutionary activities of the week past.	723
July 20 (79)	<i>From the Chargé in the Dominican Republic (tel.)</i> Recommendation that authorization be given to make a statement that the United States has no intention of not recognizing Trujillo.	725
July 22 (31)	<i>To the Chargé in the Dominican Republic (tel.)</i> Information, for use at the Chargé's discretion, that the Department intends to recognize Trujillo.	726
July 26 (140)	<i>From the Chargé in the Dominican Republic</i> Report that the information concerning the Department's intentions was given to the press.	726
Aug. 9 (34)	<i>To the Chargé in the Dominican Republic (tel.)</i> Information that the Minister has been appointed the President's special representative to attend the inaugural ceremonies of Trujillo.	727
Aug. 17 (93)	<i>From the Minister in the Dominican Republic (tel.)</i> Report that inauguration took place August 16.	727

## HURRICANE DISASTER

1930 Sept. 4	<i>From the Dominican Government to the Dominican Legation at Washington (tel.)</i> Report of appalling situation resulting from a cyclone which destroyed 90 percent of Santo Domingo; request that it be brought to the attention of the U. S. Government, the representatives of friendly nations in Washington, the U. S. press, the Red Cross, and the U. S. people, and that the Department be sounded out as to the possibilities of a loan.	727
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## DOMINICAN REPUBLIC

## HURRICANE DISASTER—Continued

Date and number	Subject	Page
1930 Sept. 4 (95)	<i>From the Minister in the Dominican Republic (tel.)</i> Urgent request that a warship with supplies be sent immediately.	728
Sept. 4 (38)	<i>To the Minister in the Dominican Republic (tel.)</i> Report of aid being sent by the Red Cross, including \$15,000 to be expended by the Minister.	728
Sept. 4 (100)	<i>To the Chargé in Haiti (tel.)</i> Inquiry as to whether the hurricane hit Haiti.	729
Sept. 4	<i>From President Hoover to President Trujillo (tel.)</i> Expression of U. S. sympathy for the people of Santo Domingo.	729
Sept. 4 (39)	<i>To the Minister in the Dominican Republic (tel.)</i> Instructions to express to the President and the Dominican Red Cross the sympathy of the American Red Cross.	729
Sept. 5 (193)	<i>From the Chargé in Haiti (tel.)</i> Report of aid being sent to Santo Domingo by Haiti.	729
Sept. 5 (42)	<i>To the Minister in the Dominican Republic (tel.)</i> Information that the Red Cross has contributed \$25,000 more for relief work and has suggested that a local committee be formed to assist in its distribution.	730
Sept. 5 (192)	<i>From the Chargé in Haiti (tel.)</i> Report that Haiti was not damaged by the hurricane.	730
Sept. 6 (45)	<i>To the Minister in the Dominican Republic (tel.)</i> Information that the Red Cross is sending Mr. Ernest J. Swift, Director of Insular and Foreign Operations, to Santo Domingo to act in an advisory capacity.	731
Sept. 6 (98)	<i>From the Minister in the Dominican Republic (tel.)</i> Names of members of local committee; report on relief supplies arriving.	731
Sept. 6 (99)	<i>From the Minister in the Dominican Republic (tel.)</i> Name of an additional member of local committee.	731
Sept. 7 (101)	<i>From the Minister in the Dominican Republic (tel.)</i> Request that Red Cross be informed that needs are too great to be supplied by adjacent countries, and that a shipment of surgical supplies be sent from New York.	732
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Sept. 9 (104)	<i>From the Minister in the Dominican Republic (tel.)</i> Opinion that presence of marines would have very beneficial moral effect.	733

## DOMINICAN REPUBLIC

## HURRICANE DISASTER—Continued

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Sept. 9 (102)	<i>From the Minister in the Dominican Republic (tel.)</i> Request that Major Watson be rushed to Santo Domingo, preferably as an Attaché of the Legation.	734
Sept. 10 (48)	<i>To the Minister in the Dominican Republic (tel.)</i> Department's extreme reluctance to have marines sent to Santo Domingo.	734
Sept. 10 (49)	<i>To the Minister in the Dominican Republic (tel.)</i> Information that Major Watson will arrive about September 12 and that he is being designated as Naval Attaché.	735
Sept. 20	<i>From President Trujillo to President Hoover</i> Expression of gratitude for assistance and especially for services of Mr. Ernest J. Swift.	735
Sept. 20	<i>From President Trujillo to President Hoover</i> Tribute to the services rendered by Dr. Lucius M. Johnson, M. C. U. S. N.	736
Sept. 22 (57)	<i>To the Minister in the Dominican Republic (tel.)</i> Advice that Mr. Eliot Wadsworth is being sent to Santo Domingo as the President's special representative to report to the U. S. Government on Dominican plans for rehabilitation.	736
Sept. 24 (58)	<i>To the Minister in the Dominican Republic (tel.)</i> Instructions to inform Trujillo that Mr. Wadsworth is coming, and to put all the facilities of the Legation at Mr. Wadsworth's disposal.	737
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## EGYPT

## PROVISIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND EGYPT ACCORDING UNCONDITIONAL MOST-FAVORED-NATION TREATMENT IN CUSTOMS MATTERS, SIGNED MAY 24, 1930

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1930 Feb. 18 (122)	<i>To the Minister in Ethiopia</i> Statement of U. S. policy, and suggestion that a position be taken which is not calculated to obstruct the Ethiopian Government in enacting reasonable laws and that an objection be raised only if the laws discriminate against U. S. citizens or provide punishments shocking to American sensibilities.	768

# CHINA

## CONTINUED CIVIL WAR IN CHINA; INTERVENTION OF MANCHURIAN FORCES ON SIDE OF NANKING GOVERNMENT AND DEFEAT OF OPPOSITION IN NORTH CHINA<sup>1</sup>

893.00 P.R./29

*The Minister in China (Johnson) to the Secretary of State*

[Extract]

No. 38

PEIPING, February 19, 1930.

[Received March 28.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,<sup>2</sup> I have the honor to submit the following summary, with index, of events and conditions in China during January, 1930:

The suppression of the Kuominchun revolt in November last, followed by the success of the Central Government in December in preventing the threatened establishment of an independent régime in Canton and in holding in check the T'ang Sheng-chih and Shih Yu-san revolts, enabled Nanking to enter and (since January was a relatively quiet month) to pass through the period under review with a somewhat misleading air of strength and stability. Not far below the surface simmered customary possibilities for future trouble as evidenced, for example, by the fact that the menace to Canton presented by the insurgents of Kwangsi remained in existence and that Shih Yu-san, although officially pardoned for the mutiny of his troops at Pukow and therefore supposedly restored to a position of trust, continued to be a refractory element astride the Tientsin-Pukow railroad. The Kuominchun, also, although quiescent, was potentially rebellious.

Marshal Yen Hsi-shan's gradual and non-spectacular assumption of independent control over the territory north of the Yellow River (other than Manchuria) was the most important single element making for uncertainty in the politico-military situation. In controlling the revenues and the civil and military appointments of that area his power presumably was exercised in his capacity of Vice Commander-in-Chief of the land, sea, and air forces of the National Government, whereby the fiction of authority centralized at Nanking was main-

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<sup>1</sup> For previous correspondence regarding political conditions in China, see *Foreign Relations*, 1929, vol. II, pp. 123 ff.

<sup>2</sup> Not printed; it instructed the Minister to supplement his political reports by a brief monthly summary of events and conditions in China.

tained. However, were he to establish himself at Peiping, as it was rumored in January that he was about to do, the act in its moral effect and in point of fact would be a long step toward an open break between the North and the South. Rumors too numerous to be disregarded were current in January that General Chiang Kai-shek desired to combat Yen's influence by entering into friendly relations with Marshal Feng Yu-hsiang, General Chiang's recent chief antagonist. Although no inconvenient questions of principle would interfere, such a development from a physical point of view was complicated by the fact that Yen practically held Feng in detention near Taiyuanfu.

The total of the forces under arms in China, not including irregulars, was estimated by the Military Attaché to be 2,050,700 men, at the end of the month, grouped roughly as follows:

Nationalist forces . . . . .	406, 000
Chiang Kai-shek, Commander-in-Chief	
Yen Hsi-shan, Vice Commander-in-Chief	
Newly organized troops under the Central Government . . . . .	205, 500
Provincial Garrison forces . . . . .	30, 600
(These units are not included among the Central Government troops because they are used primarily as forces for bandit suppression.)	
First Group of Armies. . . . .	144, 000
(Old Chiang Kai-shek divisions)	
Total Government troops, including Provincial Garrison forces, and the First Group of Armies . . .	786, 100
Second Group of Armies. . . . .	249, 000
(Feng Yu-hsiang troops)	
Third Group of Armies . . . . .	181, 000
Yen Hsi-shan, Commander-in-Chief	
Shang Chen, Second in command	
Provincial Garrison Forces—	
Ku Jen-fa in Shansi. . . . .	64, 000
Total Third Group of Armies. . . . .	245, 000
Miscellaneous Units nominally under the National Government's control . . . . .	368, 500
(In Kwangsi, Yunnan, Kweichow, Sinkiang, Chekiang, and in Szechwan—the total in Szechwan being 264,000)	
Northeastern Frontier Defense Forces . . . . .	402, 100
Chang Hsueh-liang, Commander-in-Chief	
Wan Fu-lin and Chang Tso-hsiang, Deputy Commanders.	

During January, the Chinese Government announced the decision commencing with February 1st to collect customs duties on imports from abroad on a gold basis. The action was taken as a result of the recent severe decline in the gold exchange value of silver which caused the Chinese Government much concern during the month and which resulted in its sustaining heavy losses in making payments against foreign gold loans.

### T'ANG SHENG-CHIH REVOLT

The following account of the end of the T'ang Sheng-chih revolt is taken from a despatch by the Consul General at Hankow:

"The first week of January marked the beginning of the collapse of Tang Sen-chih's revolt in Honan. The outcome of the conflict between the revolting troops and the National Army was somewhat doubtful at the beginning of the month, but the large force despatched from Hankow up the Peiping-Hankow Railway under the command of General Liu Chi and the pressure from the north by General Yen Hsi-shan's troops proved entirely too much for Tang Sen-chih, who ultimately found himself maneuvered into such a difficult position that no avenue of escape was open . . .

" . . . While in the early stages of the Honan trouble General Yen Hsi-shan took no active part in the suppression of the rebel move by Tang Sen-chih, it is quite clear that it was partially through Yen's assistance in the first week of January that the elimination of Tang Sen-chih was brought about . . ."

I have [etc.]

For the Minister:  
MAHLON F. PERKINS  
*Counselor of Legation*

893.00 P.R./30

### *The Minister in China (Johnson) to the Secretary of State*

[Extracts]

No. 116

PEIPING, March 26, 1930.

[Received April 23.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,<sup>3</sup> I have the honor to submit the following summary, with index, of events and conditions in China during February, 1930:

The month was one of troop movements and telegrams. There was no serious fighting in any part of China with the exception of the disarming of the troops of General Kao Kuei-tzu by the Nationalists in Shantung Province, and the continuation of the half-hearted campaign of the Cantonese armies around Wuchow in an endeavor to suppress the Kwangsi-Ironside revolt.

<sup>3</sup> Not printed.



On February 3rd General Chiang Kai-shek announced that he would leave Nanking for Canton the following week to investigate conditions in South China. It was presumed that he really hoped to inject new life into the southern campaign by changing some of the officers in command. However, on the 7th, the Generalissimo stated that he had decided to defer his departure until he had received a report on the situation in Fukien Province. There followed a calm of three days, and on February 9th a telegraphic controversy commenced between Generals Chiang Kai-shek and Yen Hsi-shan and continued through the month. This battle of words may result in a spring campaign of the first magnitude. Inasmuch as the messages exchanged by China's two chief military leaders held the attention of the public during the entire month, and as they may prove to be of serious consequence, I venture to tabulate them as follows:

*1. February 9th.*

Chiang Kai-shek to Yen Hsi-shan, announcing his plan to proceed to Kwangtung to direct military operations against the Ironside and Kwangsi rebels.

*2. February 10th.*

A circular telegram signed by the Presidents of the Five Ministries, to military leaders throughout the country, emphasizing the need for peaceful unification as the only hope for China, and assailing in strong terms those who stir up dissensions in troubled waters.

*3. February 10th.*

Yen Hsi-shan to Chiang Kai-shek, declaring that "force cannot be depended upon as an ultimate arbiter" and recommending "that we both retire for the benefit of the country".

*4. February 12th.*

Chiang Kai-shek to Yen Hsi-shan, declaring that the unification of China by peaceful means is one of his cherished dreams; that he desires to retire to private life, but cannot do so until the revolt in Kwangsi has been suppressed, and that he hopes that General Yen will continue to cooperate with the Government in solving China's problems.

*5. February 15th.*

Marshal Chang Hsueh-liang to Generals Chiang Kai-shek and Yen Hsi-shan, urging a peaceful settlement of the differences between Yen and Chiang.

*6. February 15th.*

A circular telegram from General Chiang Kai-shek to military leaders throughout the country, stressing the point that enforcement of the Government's disbandment program and the suppression of internal disturbances is essential to the maintenance of peace and the unification of China.

*7. February 19th.*

Yen Hsi-shan to Chiang Kai-shek declaring that, with the exception of the communists, all members of the Kuomintang should unite in

dealing with national affairs "in accordance with the will of the majority".

*8. February 20th.*

From the Chiefs of the Executive, Legislative, and Judicial Yuans to General Yen Hsi-shan, urging him to "ponder carefully before acting".

*9. February 21st.*

Chiang Kai-shek to Yen Hsi-shan, charging Yen of having mobilized his army for the purpose of fighting the Central Government. Yen is instructed in this telegram to demobilize his troops and to release General Feng Yu-hsiang in order that he may keep his pledge to travel abroad.

*10. February 24th.*

Yen Hsi-shan to Chiang Kai-shek. This, the most important of a series of telegrams issued during the month, was supposed to have been signed, not only by Yen Hsi-shan, but also by Marshal Feng Yu-hsiang, Li Tsung-jen, and forty-two other generals. Later some of the generals denied having affixed their signatures to the document. The message expresses the hope that party differences will be settled by a vote of all members of the Kuomintang.

It appears that General Yen Hsi-shan and the Shansi faction depend for military support upon the Kuominchun and the former Kuominchun units under Generals Han Fu-chu, Shih Yu-san, and Sun Tien-ying. Politically, there are indications of a general community of purpose between the old-style militarists, including the Anfu clique and the Peiyang military party, the more progressive conservatives represented by General Yen and the Shansi faction, and the radical militarists and politicians, including Wang Ching-wei and the Kuomintang Leftists.

Reports from Mukden tend to confirm the belief that Marshal Chang Hsueh-liang will maintain an attitude of neutrality. It is likewise thought that General Ch'en Tiao-yuan, now in control of Shantung Province, will remain loyal to the Central Government.

Although little or no actual fighting took place during February, extensive movements of troops were the order of the day, especially along the Yangtze. Chiang Kai-shek, during the month, concentrated the main body of his dependable troops in the general area of Hsuehchow-Pengpu, and Yen Hsi-shan stationed five divisions in the Chengchow-Tsaochow-Taming area and another three divisions along the Tsin-Pu Railway near the Hopei-Shantung border. All his forces are now being mobilized. Government forces are in contact with Shih Yu-san and Sun Tien-ying on the Kiangsu-Honan-Anhwei frontier where fighting seems imminent. These troops are supported by Han Fu-chu in the Kaifeng area. Leading elements of the Kuominchun have arrived at Kunghsien on the Lung-Hai Railway and in the vicinity of Siangyang in the Han River valley. The fact that so many

troops were moved down river from Hankow, leaving that city exposed to an attack from the Kuominchun, caused considerable speculation as to the plans of the Nationalists.

On February 28th Marshal Feng Yu-hsiang left Chien-An village where he had been residing as a "guest" of Marshal Yen Hsi-shan, and, escorted by the Marshal, proceeded to Taiyuanfu where he established his residence at the headquarters of the Shansi leader.

The situation in Shantung Province during the month under review was somewhat obscure. It is believed that General Ch'en Tiao-yuan, hemmed in by the forces of both Chiang Kai-shek and Yen Hsi-shan, found himself in such a precarious and difficult position that he was forced to temporize with both factions, his sympathies probably being with the northerners. However, as the Central Government began to mass troops along the southern section of the Tsin-Pu Railway as soon as General Shih Yu-san's forces moved to Honan, General Ch'en gave definite indications of having chosen to remain loyal to the Nanking Government by disarming the troops of General Kao Kuei-tzu, under the pretext that General Kao had been carrying on correspondence with Generals Shih Yu-san, Han Fu-chu, and Yen Hsi-shan.

During the month a series of conferences were held at Mukden for the purpose of considering the reorganization of the Manchurian armies, the general political situation in China, and the affairs of the Chinese Eastern Railway. These conferences, which were attended by Chang-Tso-hsiang, Wan Fu-lin, and T'ang Yu-lin, Vice Commanders of the northeastern frontier defense forces and heads of the provincial governments of Kirin, Heilungchiang, and Jehol, respectively, continued throughout the month, but have not apparently come to any definite decision with respect to the matters enumerated above. However, it is probable that Mukden will remain neutral should civil war be resumed in intra-mural China or at least until it may become evident which faction will meet with success. Manchurian authorities have resisted any attempt of the northerners to seize the rolling stock of the Peking-Mukden Railway and have concentrated all available goods and passenger cars on sidings at Chinwangtao. It is reported that the Manchurian troops stationed between Lanchow [*Lwanchow*] and Shanhaikwan have been greatly increased in numbers.

The attitude of the Canton military clique with respect to the Chiang Kai-shek/Yen Hsi-shan controversy is likewise obscured by the fact that no important representative was sent from Kwangtung to the Kuomintang Congress which opened at Nanking on March 1st, as also by the fact that no public proclamation of loyalty to the Nanking Government has been made by General Ch'en Chi-t'ang or Lin Yun-koy, Mayor of Canton.

The military situation in South China remains practically unchanged. At the end of the month Kwangtung Province was free of

forces hostile to the Cantonese régime. General Ch'en Chi-t'ang continues to maintain headquarters at Wuchow, where he is supported by several military planes and a number of river gunboats. Communist bands with anti-Christian and anti-foreign tendencies have captured the city of Lungchow on the French Indo-China frontier, as well as Poseh and Taipingfu, two important cities of Kwangsi Province.

I have [etc.]

NELSON TRUSLER JOHNSON

893.00 P.R./31

*The Minister in China (Johnson) to the Secretary of State*

[Extract]

No. 157

PEIPING, April 17, 1930.

[Received May 22.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,<sup>7</sup> I have the honor to submit the following summary, with index, of events and conditions in China during March, 1930.

The civilization of the Chinese people, who comprise one-fourth of the human race, is being shaken by the impact of the radically different machine civilization of the West with resultant disorder and unrest. An ancient civilization is breaking up, and it will be many years before the work of constructive agencies (for example, the Mass Education Movement) can counterbalance the activity of irresponsible persons to whom a time of disorder presents an opportunity for personal gain at the expense of the community. Such persons are the bandits who roam over the countryside in increasing numbers and the horde of minor militarists who, unhampered by guiding principles, combine with and against one another with readiness and who, as a rule, leave in their wake no more tangible evidences of their presence than further impoverishment of the areas under their control.

The above outline, of course, is, if true, as characteristic of other months and years since the establishment of the Republic as it is of March, 1930. In considering exclusively the period under review, I should say that its outstanding development was a clarification of the relationship in which the three chief figures of China, Chiang Kai-shek, Yen Hsi-shan, and Feng Yu-hsiang, stood toward one another. During March the break was clean, with China divided into two camps, North and South, although the leaders were at pains to emphasize that no geographical or political issue was at stake, it being a question of personalities; General Chiang against Marshals Feng and Yen; General Chiang based on the rich port of Shanghai and employing in his capacity of "personal militarist" some forty-two German military

<sup>7</sup> Not printed.

advisers; Feng and Yen representing and controlling the North or more accurately the Northwest since Mukden was neutral.

As to the plans and motives of the Northwestern group, the prevailing opinion in Peiping at the beginning of the month seemed to be that Marshal Yen Hsi-shan was unwillingly being driven to action through fear of eventual elimination were he to continue to "sit on the fence" until all of his potential allies were individually disposed of by the central government under General Chiang Kai-shek in pursuance of its asserted endeavor to "unify" the country. On February 28th, Li Fu-ying, Commander of the Peiping Garrison, called at several of the Legations ostensibly with the object of preparing the way for the coming to Peiping of Marshal Yen. He expressed the opinion that war was almost inevitable, stating that the Marshal had come to an understanding with General Chiang's numerous opponents, including the Kwangsi faction, Wang Ching-wei, and certain of the Kwangtung leaders, as well as with the principal leaders in North China, and that plans had been arranged to synchronize military operations against Nanking. He stated that he did not expect that Mukden would participate actively, partly from a disinclination to become committed before the outcome was certain and partly from apprehension lest Soviet Russia, perhaps with the connivance of Nanking, create disorders in Manchuria.

During the latter part of the month the Northern opposition to the Nanking Government was strengthened by greater cohesion and more active cooperation between Yen and Feng Yu-hsiang. Both in Peiping and in Tientsin, the railway, telegraph, and all revenue-producing administrations were taken over by Yen, Nanking appointees being ejected and their places filled by Shansi men. The Peiping office of the Ministry of Foreign Affairs (the former Peking Waichiaopu building) was also taken over, the Nanking official in charge having already left for the South. These operations resulted in the virtual disappearance of the Nanking party and government administration in the area dominated by Marshals Feng and Yen, except that the Nanking Government retained control over the Maritime Customs.

Feng, with the acquiescence of Yen, went from Shansi to T'ungkuan to take active command of the Kuominchun which was steadily moving eastward along the Lunghai Railway with a diversion toward the Wuhan area. Yen was reported to be supplying Feng with both money and supplies so that the Kuominchun was better equipped than in its campaign of the autumn of 1929. As regards the "variables", Generals Shih Yu-san and Han Fu-chu, the former was, for the moment, adhering to the Northern combination and the latter to Nanking. There were reports at the end of the month that minor clashes with Han's troops had already occurred.

In a telegram of April 1st addressed to the diplomatic representatives of the foreign powers in China (and delivered to them by a personal representative) Yen Hsi-shan stated that, on repeated request from members of the Kuomintang, military men, and the people, he was constrained to assume office as Commander-in-Chief of the Army, Navy, and Aeronautic Forces of the Republic of China on April 1st. He stated further that he had taken an oath to lead a punitive campaign against "a certain person" who was illegally occupying the Central Government, who was carrying on illegal transactions and who was neglecting his duties. Marshal Yen stated that the lives and property of foreigners within the territories under his jurisdiction were to be uniformly protected. He added that he desired the several friendly foreign Powers to respect "the true aspirations of the Chinese People" and not to render spiritual and material assistance to whomsoever was "destroying unification and trampling on the masses."

#### DISTURBANCES IN KIANGSI

Under the command of Chu Teh and Mao Tze-tung, some ten thousand communist troops were in control, at the end of March, in the northwest of the province of Kiangsi, while bandits held the Kan River region from Kianfu to Kanchow.

According to missionary reports, it was the plan of the communists to attack undefended points only, after obtaining information in regard to them from the local population. When the Government sent troops against them they retired to strike later at another point. There seemed to be no doubt that personal gain was the motive for these operations which, however, also had political significance as the populace was not interfered with, only Government buildings being destroyed. It was stated also that anti-foreign feeling was more intense in the province than at any time since 1927. The Government troops at Nanchang numbered about a thousand of which five hundred left on March 27th to distribute themselves along the Nanchang-Kiukiang railway, thus rendering Nanchang liable to capture.

#### GOLD STANDARD CURRENCY RECOMMENDED FOR CHINA

The Shanghai Consulate General received, at the end of the month, an advance copy of a report submitted to the Ministry of Finance by the Kemmerer<sup>\*</sup> Commission of Financial Experts on November 11, 1929, entitled: "Project of Law for the Gradual Introduction of a Gold Standard Currency in China." The Commission recommended

<sup>\*</sup> Prof. Edwin W. Kemmerer of Princeton University.

that China should go on a gold standard since her trade was almost entirely with gold standard countries and since her public debt was largely a gold standard debt and likely to be increasingly so for many years to come. Another reason advanced was that gold was likely to be the more stable monetary standard of the future. It was pointed out, however, that the gold supply was prospectively inadequate and that China by adopting the gold standard might help to bring about a world shortage of gold and a consequent fall in world price levels.

The proposed new gold unit, to be called a "Sun", is to have a value of forty cents, United States currency. The Commission fully realizes the difficulties of introducing this new system into China and recommends that it be introduced slowly and cautiously, province by province. A "Currency Department" is to be established by the Ministry of Finance, charged with the administration of the "Gold Standard Fund" to be created by the projected law.

I have [etc.]

NELSON TRUSLER JOHNSON

893.00 P.R./32

*The Minister in China (Johnson) to the Secretary of State*

No. 202

[Extracts]

PEIPING, May 15, 1930.

[Received June 18.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,<sup>o</sup> I have the honor to submit the following summary, with index, of events and conditions in China during April, 1930:

Hostile military operations in the civil war between North and South China resulting from the breach between Nanking and Tai-yuanfu were restricted, during the period under review, to minor skirmishing. The announced aims of the two groups continued as before, on the part of General Chiang Kai-shek, as the "President" of the Republic, to maintain unity by the suppression of insurgency, and on the part of Marshal Yen Hsi-shan, as the leader of the Northwest, to bring about the establishment of a "legal" government by the elimination from power of the allegedly corrupt Chiang family. Neither of these aims arouse any enthusiasm in the Chinese people as a whole who have little confidence in those who would mould their destinies and who only desire, as a rule in vain, that their peaceful pursuits should not be interrupted.

Although there was little actual fighting, there was a good deal of military preparation and preliminary maneuvering. The Northern

<sup>o</sup> Not printed.

coalition, after practically clearing Honan of Nanking supporters, penetrated into Shantung, Hupeh, and Anhwei. There was an apparent intention, especially noticeable early in the month, to avoid serious contact with the Nanking forces until the Kuominchun should have emerged from the northwest and effected complete concentration at Chengchow, the junction in Honan of the Kin-Han and Lung-Hai Railways. The central Government, on the other hand, did not appear, during April, to have departed from its original plan of remaining on the defensive in the Hsuehchow, Kiangsu, area. Without weakening the main concentration at Hsuehchow, there was also evidence of Nanking's desire to reinforce its position at Wuhan, Hupeh, either for the purpose of defense against a possible northern diversion in that direction, or to cut off Marshals Yen Hsi-shan and Feng Yu-hsiang from the mountains in the event of their becoming too extended in the plains. The two leaders were scheduled to meet in military conference early in May at Chengchow and it was expected that events would move more rapidly thereafter.

The Mukden Government, resisting solicitations for support from both sides, remained noncommittal during April. And it was not certain whether Mr. Wang Ching-wei, the influential head of the Left Wing, would leave his political refuge in the British colony of Hong-kong to come to Peiping to strengthen the Northern coalition by his active support.

#### MILITARY FORCES

According to a report of April 21st by the office of the Legation's Military Attaché, there were some 2,300,000 men under arms in China in April. This total may be divided roughly as follows:

##### A. CENTRAL GOVERNMENT FORCES

Chiang Kai-shek . . . . .	Commander-in-Chief	
Ho Ying-chin . . . . .	Chief of Staff	
First Army—Han Fu-chu . . . . .		86, 000
Second Army—Liu Chih . . . . .		142, 000
Third Army—Ho Cheng-chun . . . . .		164, 000
Supplementary Army—Chen Tiao-yuan . . . . .		28, 000
Certain units not included in the above four armies because they are used chiefly for maintenance of peace and order or as forces for bandit sup- pression . . . . .		295, 100
Total . . . . .		715, 100

##### B. ANTI-GOVERNMENT FORCES

Yen Hsi-shan . .	Commander-in-Chief
Feng Yu-hsiang }	Deputy Commanders
Li Tsung-jen }	



First Group of Armies—Pai Chung-hsi . . . . .	60,000
Second Group of Armies—Lu Chung-lin . . . . .	262,000
Third Group of Armies—Hsu Yung-chang . . . . .	271,000
Fourth Group of Armies—Shih Yu-san . . . . .	60,000
Miscellaneous troops in the Anti-Government move- ment . . . . .	219,000
Total . . . . .	872,000

## C. MISCELLANEOUS UNITS

(Nominally under the Nanking Government's control)

In Yunnan, Kweichow, and Sinkiang . . . . .	56,500
In Szechwan . . . . .	264,000
Total . . . . .	320,500

## D. NORTHEASTERN FRONTIER DEFENSE FORCES

Chang Hsueh-liang . . .	Commander-in-Chief
Wan Fu-lin	Deputy Commanders
Chang Tso-hsiang }	
Fentieng Forces . . . . .	227,600
Kirin—Chang Tso-hsiang . . . . .	96,000
Heilungkiang—Wan Fu-lin . . . . .	37,000
Jehol—Tang Yu-lin . . . . .	48,500
Total . . . . .	409,100
TOTAL forces under arms in China, not in- cluding irregulars . . . . .	2,316,700

## ESTABLISHMENT OF A "FOREIGN OFFICE" AT PEIPING

During April, Marshal Yen Hsi-shan opened in the former Wai-chiaopu building in Peiping a local "Foreign Office" under the direction of a Mr. Chu Ao-hsiang<sup>10</sup> who styled himself "Chief of the Diplomatic Bureau of the General Headquarters of the Army, Navy, and Air Forces of the Republic of China". This step, however, was not held to foreshadow the creation of a separatist government for North China, it being understood that such action, if taken at all, would only follow substantial military successes in the field.

## UNSETTLED CONDITIONS IN CHINA

A report, of April 7th, dealing with banditry and communist disorders, by the office of the Legation's Military Attaché, called attention to the fact that, due to the opposition of the Northern coalition to

<sup>10</sup> Also known as Chu Ho-hsiang and Tchou Ngao-hsiang.

the Nanking Government, the latter's most dependable troops had been withdrawn from their normal garrison areas into the concentration effected for the immediate defense of the capital. A serious situation was thereby created inasmuch as even before this emergency the central Government had been unable to maintain order over large areas under its nominal control.

Generally disorderly conditions were especially prevalent in southern China during the month and the Legation suggested that the Department, in addition to informing the Catholic authorities whose missionaries were stationed in Kiangsi, make the existing conditions known to the interested mission boards in general, with a view to having American citizens in the affected areas withdraw from exposed points until quieter times. The Legation was influenced in this regard by the belief that it was unreasonable to make demands upon the Nanking Government that troops be maintained to protect scattered groups of American residents at remote points in the interior of the country at a time when that Government was fighting for its existence and must concentrate its forces.

I have [etc.]

For the Minister:  
MAHLON F. PERKINS  
*Counselor of Legation*

893.00/10856 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

[Extract]

PEIPING, May 23, 1930—6 p. m.  
[Received May 23—3:30 p. m.<sup>11</sup>]

365. . . .

2. From various reliable sources there is a unanimity of view that banditry and communism in the Yangtze Valley and South China are of as much concern to Nanking as are their more organized adversaries in the North. The Provinces of Kiangsi and Hupeh are very largely in the hands of these irregulars and even Hankow itself is not considered to be entirely safe from the possibility of attack. Many of the district magistrates have fled and the more wealthy Chinese are in increasing numbers taking refuge in the treaty ports. The economic disorganization occasioned by these activities has been aggravated by the rice shortage in the Yangtze Valley and by the market disturbances caused by the unprecedented fall in silver. I am also informed that the recent growth of communism in China has brought about a renewed interest on the part of Moscow which is

<sup>11</sup> Telegram in three sections.

extending financial support to selected Chinese groups. Should this trend toward local anarchy continue unchecked the safety of foreign residents in many parts of the interior may be much more seriously jeopardized than it has been at any time since 1927. In this relation, see despatch of May 22nd from the Commander in Chief to the Secretary of the Navy just received by the Legation subsequent to the preparation of the foregoing telegram.

For the Minister:  
PERKINS

893.00 P.R./33

*The Minister in China (Johnson) to the Secretary of State*

[Extracts]

No. 257

PEIPING, June 10, 1930.

[Received July 16.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,<sup>12</sup> I have the honor to submit the following summary, with index, of events and conditions in China during May, 1930:

#### POLITICO-MILITARY SITUATION

Military operations, in the Nanking Government's struggle with its opponents both in North and South China, were of a considerably more serious character in May than in April when minor skirmishing heralded the coming storm. No decisive action occurred, however, and at the end of May the issue was as much in doubt as it was at the beginning of the month.

At the end of the month there was severe fighting along the Lung-Hai Railway, the gist of the available information in the matter being that the Nanking forces were at first successful, that they later met with serious reverses, and that there were many casualties on both sides. General Chiang Kai-shek's German-trained model division seemed not to have done as well as was anticipated.

The fall of Changsha (Hunan) to Kwangsi forces was imminent at the end of May. In Shantung the Shansi troops had begun a partial envelopment of Tsinan. Apart from the fighting on the Lung-Hai Railway, the foci of interest and strategic importance were Changsha and Tsinan.

#### BANDITRY AND COMMUNISM

Information received from various sources during May tended to the belief, in connection with the political situation, that the greatest danger facing Nanking lay in the rapid growth of banditry and communism. Many believed that the threat to the continuance of the

<sup>12</sup> Not printed.

Nanking Government from that source was much greater than from the military opposition of Marshal Yen Hsi-shan and his associates. The precarious condition of the silk industry in Kiangsu Province was sighted [*cited*] to the Legation as an instance of this, the general insecurity being so great that the silk merchants of Soochow did not dare travel through the countryside.

As a result of these conditions, which were quite general in many parts of the Yangtze Valley, artificial prosperity had come to Shanghai, where real estate values had greatly advanced, due to the fact that wealthy Chinese were flocking there for the purposes of self-protection and for the investment of wealth no longer secure elsewhere.

#### AIMS OF THE NORTHERN COALITION

The following extracts from a report of an interview, at Peiping, on May 16th, granted newspaper correspondents by Marshal Yen Hsi-shan's Diplomatic Representative here, are of interest as indicative of what the Northern coalition desired to have made known regarding its aims and aspirations:

"The downfall of Chiang Kai-shek is a matter of course and a foregone conclusion. The most important issue confronting us after the fall of Chiang Kai-shek is the work of reconstruction. It consists of four general points:—

1. Maintenance of law and order and suppression of bandits, so that life and property can be made safe.
2. Purification of the civil service and eradication of avarice and corruption, in order to establish a clean government.
3. Lightening of taxation by abolishing all extra and oppressive taxes which might prove too much of a burden for the people.
4. Making public all financial matters. Accounts of receipts and expenditures of all the government offices to be made public so as to make speculation impossible.

The overthrow of Chiang Kai-shek's government would be meaningless unless the fundamental objects above-mentioned are attained.

Marshal Yen Hsi-shan has declared that the organisation of a new government must be strictly on a legal basis.

It can now be reasonably expected that such a government will come into being within a very short time.

Regarding the war situation, everything is proceeding satisfactorily."

. . . . .

#### PROHIBITION OF EXPORT OF GOLD BULLION AND IMPORT OF FOREIGN SILVER COINS

With regard to the continuing fall in the value of silver and the incident heightened concern in the projected adoption of a gold standard for China, the quotation below (illustrative of the measures taken

by the Nanking Government) is made from a report, dated Shanghai, May 20th, by Trade Commissioner Williams:

"The Executive Yuan on May 15th, under special instructions from the State Council, issued instructions that the Maritime Customs Administration be immediately ordered to prohibit the export of gold bullion and the import of foreign silver coins.

The proposal for the adoption of the measure was originally submitted to the Central Political Council in separate petitions by Mr. Sun Fo, Minister of Railways, and Dr. H. H. Kung, Minister of Industry, Commerce and Labor, and was subsequently referred to the Economic and Finance Committees of the Council for joint examination.

In the course of a report submitted on behalf of the joint committees, favoring the adoption of the proposal, Mr. T. V. Soong, Minister of Finance, pointed out that in order to avoid serious losses as well as to follow the general tendency of the times, it was obviously necessary to adopt the Gold Standard for the country and that in view of the small quantity of gold bullion in China, it was necessary first to prevent the export of gold so as to facilitate the gradual adoption of the Gold Standard. An embargo on the importation of foreign silver coins was also considered necessary to prevent confusion in the country's currency."

It may be pointed out, in this relation, that the average selling rate, United States currency for Chinese currency, of the foreign exchange banks, advanced from \$2.39, Chinese currency, for G\$1.00, on May 31, 1929, to \$3.50, Chinese currency, for G\$1.00, on May 31, 1930.

I have [etc.]

For the Minister:  
MAHLON F. PERKINS  
Counselor of Legation

893.00/10896 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 11, 1930—3 p. m.  
[Received June 11—6:45 a. m.<sup>13</sup>]

431. Following from Minister Johnson, Nanking, June 10, 5 p. m.:

"Have just returned from trip up river to Hankow in course of which I visited Kuling. Present situation in valley as follows:

(1) Hunan Province is now held by Chang Fah-kwei, Li Tsung-jen and Pai Chung-hsi with anti-Nationalist troops brought from the Kwangsi-Kwangtung campaign. They are being followed by Nationalist forces from Kwangtung and I am informed by the British Consul here that British Consulate at Changsha reports these Kwangtung forces to have arrived at Hengchow in Hunan, thus threatening Chang Fah-kwei's rear. Central Government is at same time moving troops up river that have been brought from Kwangtung for use in defending

<sup>13</sup> Telegram in three sections.

Wuhan against attack now threatening from Li Tsung-jen and Pai [Chung-]hsi at Changsha.

(2) Province of Hupeh (except line of Kin-Han Railway), part of Kwangtung and large parts of Anhwei appear to be under complete control of forces calling themselves Communists or Red armies. Kiangsi Province is typical. Nationalist Government controls the city of Nanchang and the short line of railway connecting N. . . . with Kiukiang. Self-styled "Red armies" practically control . . . the] rest, preventing intercourse, so that Kiukiang and Nanchang are under necessity of importing foreign rice. Country people are apparently supporting Red bands in belief that they will bring freedom from the military and rents. Government here is worried over question whether Chang Fah-kwei will be able to make common cause with self-styled Reds and receive support in his efforts to take Nanchang and possibly Nanking. Reds reputed to have some 10,000 fairly well supplied and organized forces in Kiangsi. Self-styled Red bands in provinces named are reported to number about 50,000 men.

(3) Fighting on Lung-Hai Railway at Hsuehchow is at stalemate at present. Hsuehchow is crowded with wounded soldiers who are uncared for. Slightly wounded soldiers are hanging about hospital at Nanking refusing to leave to make room for serious cases. Government forces have been making strenuous efforts to capture Lanfang on Lung-Hai Railway for nearly 3 weeks but have failed.

(4) Tsinanfu is on the verge of being evacuated by the Nationalist armies.

(5) It is said here in authoritative circles that it is the intention of the Government forces to make a drive against Chengchow on Kin-Han line.

(6) There continues to be a feeling here that the Nationalist Government can make headway and emerge from what at present looks like a hopeless situation."

For the Minister:  
PERKINS

893.00/11052

*Memorandum by the Minister in China (Johnson)* <sup>14</sup>

[Extract]

NANKING, June 13, 1930.

I called upon Dr. C. T. Wang,<sup>15</sup> at his residence this afternoon. I told him that I was aware of reports which were current concerning efforts to negotiate a peaceful compromise of the present difficulties between the Nationalist Government and the military leaders of the Northwest faction. I said that these reports were so circumstantial that I wanted to come and get from him, personally his views in the matter. I said that it was always my hope that conditions would bring about a peaceful ending of the present difficulties and that the

<sup>14</sup> Copy transmitted to the Department without covering despatch; received August 1, 1930.

<sup>15</sup> Chinese Minister for Foreign Affairs.

country might have a number of years of tranquillity so that the Government could put into effect the various programs which had been outlined.

Dr. Wang replied very positively that there was no truth in the reports of efforts at peace by compromise. He said these reports were all due to propaganda originating among the northern factions. He desired me to remember that this was a struggle between two ideas, one advocated by Dr. Sun Yat-sen, the great Kuomintang leader, calling for a unified China, governed from the center with a measure of local autonomy being granted to the cities, of which there were in the neighborhood of 2,000. He said that all along Dr. Sun had preached union and had believed that the safety of the country would be obtained if local sovereignty could be reduced to the smallest unit, which would be the city. As against this idea there was the idea of unity through the confederation of a small number of autonomous areas governed by independent heads much after the fashion of satraps under the old Persian empire of Alexander. He said that this idea did not even exist in the Chinese mind under the old Manchu regime where the plan was to farm out the duties of government to viceroys who acted in their several provinces as the very persons of the Emperor and who were held strictly accountable for the maintenance of peace and good order in their several areas and whose only duty above this to the central government was to remit the provincial quota of tribute rice each year. This idea of a union or confederation of a small group of autonomous areas amounted to a reversion of [to?] semi-feudalism.

To yield to this idea would be to play false to the teachings of Dr. Sun Yat-sen. The party which Dr. Sun Yat-sen had created was now sovereign and supreme in China. It was above the government and it was heartily supporting General Chiang Kai-shek in his sincere efforts to put into effect the ideas of the great leader. . . .

NELSON TRUSLER JOHNSON

893.00/10961 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 7, 1930—6 p. m.

[Received July 7—5:40 p. m.]

549. Representatives here of the powers signatory to the Treaty of Versailles<sup>16</sup> have received a memorandum dated Peiping, June 25,

<sup>16</sup> *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1910-1923* (Washington, Government Printing Office, 1923), vol. III, p. 3329.

from Marshal Yen Hsi-shan's "Department of Foreign Affairs of the Chinese Republic" protesting, on the basis of articles Nos. 170, 171 and 179 of the treaty,<sup>17</sup> against the activities on behalf of the Nanking Government of German military advisers and against purchases by that Government of arms and ammunition in Germany.

A copy of the memorandum was also received by this Legation which orally informed Yen's representative that the United States is not a party to treaty. The Legation is informed by the British Minister and by the Chargé d'Affaires ad interim of France that they have supplied copies of the memorandum to their respective Governments but have made no reply, for one reason on account of their belief that the German Government itself does not endorse the private proposals appealed against. The Germans understand that similar action is being taken by the other foreign representatives concerned.

For the Minister:

PERKINS

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893.00/10961: Telegram

*The Secretary of State to the Minister in China (Johnson)*

• WASHINGTON, July 10, 1930—2 p. m.

230. Legation's 549, July 7, 6 p. m. Articles No. 170, 171 and 179 of the Treaty of Versailles are among the articles of that treaty to the rights and advantages of which the United States became entitled under the treaty restoring friendly relations between United States and Germany signed at Berlin, August 25, 1921.<sup>18</sup> See "Treaty Series" No. 658.

Department considers that, by Article 179, it is the duty of the German Government to prevent German nationals from leaving German territory to become enrolled in or attached to military services of any foreign Power in any professional capacity; and, by Article 170, to prohibit exports from Germany of arms, munitions and war material of every kind.

In case any one of your colleagues takes the initiative you are authorized to participate in discussion of possible measures on basis of Marshal Yen's memorandum to which you refer. Make no commitment but report by telegraph.

STIMSON

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<sup>17</sup> *Ibid.*, pp. 3402, 3404.

<sup>18</sup> *Foreign Relations*, 1921, vol. II, p. 29.



893.00 P. R./34

*The Minister in China (Johnson) to the Secretary of State*

[Extracts]

No. 310

PEIPING, July 10, 1930.

[Received August 25.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,<sup>19</sup> I have the honor to submit the following summary, with index, of events and conditions in China, during June, 1930:

The civil war continued throughout the month with a sufficient lack of preponderant advantage to either side and a sufficient drain on the resources of both to render probable in the comparatively near future a characteristic outcome in the form of a settlement by compromise. The difficulty is that no important issues would be adequately settled by compromise and few personal ambitions satisfactorily gratified. Cessation of hostilities along these lines, to judge by past experience, would mean little more than the advent of a period of armed truce between the so-called Central Government and military leaders exercising temporarily undisputed authority in their own areas.

Military observers reported that during June the strategic area in the civil war remained along the Lung-Hai Railway, where the Nanking Government, at the end of the month, was making a determined effort to break through to Chengchow, Honan. From June 18th to 26th there was severe fighting in Honan and the Nanking forces succeeded in advancing to within a few miles of Kaifeng but were then held in check by Marshal Feng Yu-hsiang. Fighting on the other fronts that is to say in Hunan, in Shantung, and along the Peking-Hankow Railway, was not of the same consequence. Chang Fa-Kwei's "Ironsides", a force with Kwangsi adherents of about 95,000 men, captured Changsha, Hunan, on June 5th, with scarcely any resistance. Hankow, where strict martial law was maintained, became uneasy, it being menaced both from the north and the south, when, in addition to Feng Yu-hsiang's admitted plan to occupy the city, it became apparent that the Kwangsi-Ironside faction advancing from the south might succeed in doing so. The menace did not last very long, however, as Ho Chien, Chairman of the Hunan Provincial Government, reoccupied Changsha on the 17th, the Kwangsi troops withdrawing to the east. On July 2nd military headquarters at Nanking announced that the campaign in Hunan was over.

The Central Government's success against its opponents in the south was balanced by the loss of Tsinan, the capital of Shantung, to Marshal Yen Hsi-shan on June 25th. Shansi forces also were reported to have occupied Taian and Tsining. General Han Fu-chu, the Nanking adherent who defended Tsinan, withdrew his troops

<sup>19</sup> Not printed.

with little loss eastward along the Kiaochow-Tsinan railway and established new headquarters at Weihsien. The Shantung Provincial Government as organized by Nanking was moved to Tsingtao and a new provincial government under General Shih Yu-san was set up by the Shansi faction at Tsinan.

Marshal Yen Hsi-shan was reported during June to have determined upon the establishment of a formal Northern Government in Peiping, under the following leaders: Marshal Yen, Marshal Feng Yu-hsiang, Marshal Chang Hsueh-liang, General Hsü Ch'ung-chih, General Li Tsung-jen, Mr. Wang Ching-wei, and Dr. Tong Shao-yi. It appeared, according to spokesmen of the Northern coalition, that Marshal Chang Hsueh-liang favored such action but was not willing openly to say so as in that event the Nanking Government would be in a position to create difficulties in northern Manchuria and to embarrass Sino-Soviet negotiations taking place in Moscow. As far as the Legation is aware, Chang Hsueh-liang himself made no commitments in the matter. The Nanking Government on its side made a bid for his support during June by gazetting him as "Vice Commander-in-Chief of the Army, Navy, and Air Forces", an appointment which the young Marshal, maintaining his neutral attitude toward the civil war, did not accept.

There was a further spread, during the month, of banditry and of the communistic activities which are usually difficult to differentiate from it. This was especially true of the Yangtze Valley where disturbances occurred at Shasi and at Hwangshihkang in Hupeh and at Yochow and Nanchow in Hunan, among other places. Kiangsi was almost completely under communistic control, it being only in the eastern part of the province that white districts predominated over pink and red ones.

Early in the month, Lu Hsing-pang, an ex-bandit chief who for some time had been a disruptive force in Fukien affairs attempted to gain control of Foochow. In the resulting two days' fighting the Government forces prevented Lu's entry into the city and then drove him up the Min river. His organization appears not to have disintegrated, however, nor his forces to have been dispersed, and to have returned to banditry, and at the end of June the Legation was informed that he had been appointed Governor of Fukien by the Northern coalition.

At Amoy a band of some 70 communists at the end of May had raided the prison and released a number of their associates. As a sequel, a general uprising involving an attack on the international settlement of Kulangsu was feared during June but no serious trouble occurred. The fact that it did not occur may in part at least be attributed to the presence of foreign destroyers in the harbor during the critical period.

## ESTIMATE OF THE EVILS BESETTING CHINA

The following is an extract from an address early in June before the Peiping National University by Dr. Hu Shih, a frank young philosopher of prestige and influence. Dr. Hu was born in Shanghai in 1891 and received the degree of Doctor of Philosophy from Columbia University:

"The real enemy of the Chinese national revolution is not Imperialism nor the so-called feudal influence. Our country is tormented by five curses, namely, poverty, disease, ignorance, corruption in high places, and continued civil war. If we can get rid of these five curses, there will be some hope for China. But the most pressing question of the moment is to stop civil warfare, for unless that is done, it is impossible to tackle the other four curses. Let our slogan be 'Down with further civil war'."

## DEPRECIATED SILVER

The ban on the exportation of gold bars from China and on the importation of foreign silver coins remained in force during June without, however, having much effect on the silver market. The Central Political Council decided that a thoroughgoing examination of the situation was necessary in order that more effective measures might be adopted and at the end of June the Departments of Finance and of Industry and Commerce were ordered to report on the following, to be submitted within six weeks:

1. The amount of gold existing in China.
2. The amount of silver existing in China.
3. The amount of gold and silver imported and exported during the last year.
4. The amount of silver output in the world.
5. The cost of producing silver at the various mines in the world.
6. The amount of silver in demand in the world.

The following table of selling rates (United States currency for Chinese currency) of the Peiping branch of the National City Bank of New York, covering a period of six months, gives evidence of the decline in the value of the silver dollar in terms of gold:

<i>Date</i>	<i>Chinese currency</i>		<i>U. S. currency</i>
January 29th	\$2.8070	equaled	\$1.00
February 28th	2.9740	do	do
March 31st	2.9850	do	do
April 30th	2.9960	do	do
May 31st	3.50	do	do
June 28th	3.8280	do	do

The table does not show the maximum fluctuation, as during the latter part of May and early in June, the silver dollar dropped to less than U. S. \$0.25 in value.

I have [etc.]

For the Minister:  
**MAHLON F. PERKINS**  
*Counselor of Legation*

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893.00/10970 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 12, 1930—5 p. m.  
 [Received July 13—4: 32 p. m.]

568. Your 230, July 10, 2 p. m. Following Trans-Oceans Asiatic despatch dated Berlin, July 4th, is quoted in this relation:

"The Chinese Northern Government having requested the diplomatic representatives of certain powers to enquire into the alleged violation of treaties by Germans acting as advisers to the National Government at Nanking and trading in arms and munitions, it is authoritatively pointed out here today that trading in arms, munitions and poison gas has been forbidden by Germany and the ban is strictly enforced.

It is added that Germans acting as military advisers to Chinese factions do so against the wishes for [of] German Government which disapproves of this form of activity and had repeatedly warned persons concerned.

The National Government cannot be ignorant of the fact that the recruiting of such persons for military purposes is undesirable to Germany. This shows that treaty stipulations are being scrupulously observed, which is well known to those authorities who are in opposition to the National Government."

For the Minister:  
**PERKINS**

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893.00/10974 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 14, 1930—8 p. m.  
 [Received July 14—10: 25 a. m.<sup>20</sup>]

575. Department's 230, July 10, 2 p. m.

1. Following from mail despatch, July 11th, from American Consul General at Tientsin:

"The Consulate General has learned from a confidential but reliable source that an American named Shoemaker is understood to have par-

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<sup>20</sup> Telegram in two sections.

ticipated in the airplane bombing operations of the National Government military forces in the present civil war, having attempted to damage the Yellow River Bridge on the Peiping-Hankow Railway near Chengchow. Shoemaker is stated to have admitted such participation in bombing operations to persons at Hankow some weeks ago. Shoemaker is an aviator. I am unable to say whether this is the same Shoemaker who is reported to have been interested in the sale of American airplanes to the National Government.

The Consulate General, bearing in mind R. S. Section 4090, believes that the information received should be communicated to the Legation for such investigation as it may deem fit to direct. It is believed that Shoemaker is at Hankow or in the Yangtze Valley."

2. An American aviator, Bert Hall, is reported by the American Consul at Nanking to be engaged in the active military service of the Nanking Government and to have been engaged in battle flying on the Lung-Hai front. In connection with the activities of both Shoemaker and Hall, see Legation's 402, June 4, 4 p. m.,<sup>21</sup> and 406, June 5, 11 a. m.; also mail despatches 201, May 15; 208, May 16, and 211, May 17.<sup>22</sup>

3. The statute referred to by Gauss apparently authorizes the Minister to take steps to prevent American citizens in China from engaging in military activities "in the service of one portion of the people against any other portion of the same people." Before making further investigations the Legation would be glad to receive the Department's instructions as to what action it desires taken in the case of these and such other American citizens as may be engaged in the military service of either the Nanking Government or any of the factions now making war against that Government.

For the Minister:  
PERKINS

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893.00/10974 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, July 18, 1930—1 p. m.

240. Your 575 of July 14, 8 p. m. It is the Department's opinion that the prohibitions imposed on American citizens by Revised Statutes, Sections 4090 and 4102, are still in force. However, authority to enforce these laws is vested in the United States Court for China by virtue of Section 1 of the Act of June 30, 1906 (34 Statutes 1814 [814]). Accordingly, the Department is of the opinion that when the American Minister or any American consular officer in China has information tending to show that American citizens are engaged in military activities contrary to the provisions of law mentioned, such informa-

<sup>21</sup> *Post*, p. 125.

<sup>22</sup> Telegram No. 406 and despatches not printed.

tion should be brought to the attention of the District Attorney at Shanghai for appropriate investigation and report to the Court.

STIMSON

893.00/11009 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 20, 1930—noon.

[Received 2:20 p.m.]

596. Legation's 574 [575], July 14, 8 p.m. Following article is conspicuously featured in today's *Leader*, propaganda organ of the Northern Coalition:

"Two American airmen assisting Nankingites on Kueiteh front.

Special to the *Leader*. According to a telegraph advice from Kaifeng two American aviators are found to be in active service for the Nanking armies at the Kueiteh front. The message further states that the machines manned by them were purchased from America and that surprise is expressed by the Kaifeng military authorities over this discovery as it is quite a departure from the traditional policy and practice of America toward China's international [internal?] struggle."

For the Minister:

[PERKINS]

893.00/11040 : Telegram

*The Consul at Nanking (Adams) to the Secretary of State*

NANKING, August 1, 1930—5 p.m.

[Received August 1—2 p.m.]

25. As of interest, I respectfully submit the following estimate of certain conditions and possibilities in middle China from the coast to Ichang:

There is amongst higher civil officials in Nanking an appreciation of the menace contained in existing widespread banditry and the so-called communist army, such as that temporarily disturbing Changsha. But I did not find evidence that the military authorities in Nanking consider disturbances such as that at Changsha of first importance as an immediate military problem.

It is reasonable to expect an increased expression of lawlessness in territories denuded of regular garrisons by war concentration, but I believe that when the troops now fighting return to their customary garrisons they may themselves be a source of danger. Every resource is now being strained by the Government to keep the troops paid, but, when the present military emergency is over, there is bound to be the relaxation of exhaustion in the financial efforts of the Government, assuming that the present Government will continue to exist. The

Treasury of the Government has been subjected to enormous military drains during recent months. When this is considered in conjunction with the financial position of the Government on June 30th, 1929, as described in my political report for March,<sup>23</sup> some idea of the present financial straits of the Government may be obtained. Failing to receive their pay from exhausted provincial and national treasuries, the troops will in most places be confronted with an impoverished countryside. The soldiers will also have been rendered savage by unusually prolonged campaign hardships. If the temper of wounded soldiers already returned from the war fronts is an indication of the state of mind of the armies concentrated in Honan and Shantung, there is some cause for uneasiness.

There is now promise of excellent crops throughout the whole of the Yangtze Valley and adjacent agricultural regions but lawlessness in large areas and military operations threaten to curtail harvesting and marketing of the main crops that will mature in late August and September. Such curtailment would be particularly unfortunate. It would minimize recovery from starvation conditions existing in large areas. It would also increase Chinese purchases with depreciated silver currency of foodstuffs from foreign territories with currencies having a fixed relation to gold. Further increase in cost to Chinese of food would give additional impetus to disorders.

Without taking into account the possibilities of disturbance that would be involved in the collapse of the National Government, I should say that the extent to which the Yangtze Valley regions may reasonably be expected to return to comparative order in the near future depends considerably upon:

- (1) The extent to which farmers are able to harvest their crops, and
- (2) The ability of the responsible military leaders after the termination of the present war to pay and maintain discipline amongst troops affected by war hardships.

Legation informed.

ADAMS

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893.00 P.R./36

*The Minister in China (Johnson) to the Secretary of State*

[Extracts]

No. 408

PEIPING, August 15, 1930.

[Received September 24.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,<sup>23</sup> I have the honor to submit the following summary, with index, of events and conditions in China, during July, 1930:

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<sup>23</sup> Not printed.

Due largely to the excessive heat, the civil war was waged sporadically and without definitive result, prolonging in this respect by another month the indecisive politico-military situation of June. A clear-cut victory to either side did not seem probable. The fronts along the Lung-Hai railway, along the Peking-Hankow railway, and in Shantung remained substantially as before. On the Lung-Hai front, the Kuominchun, under Marshal Feng Yu-hsiang, some 200,000 strong and reputed the best troops of the Northern coalition, were held in check by a corresponding number of troops of the Nanking Government. On the Peking-Hankow railway there was little or no activity. General Chiang Kai-shek concentrated 100,000 of his best troops in the Yenchow-Tsining area in Shantung but his offensive with Tsinan as the objective did not start until August 2nd. Further to the east in that province, the threatened retirement of General Han Fu-chu (who controlled 30,000 men) and the incident probable abandonment of the Kaomi-Weihsien region to Shansi forces, at the end of July, would have been a serious blow to the Nanking Government and made effective action on the Tsinan-Tsingtao railway difficult. The Nanking Government sent additional military equipment and 20,000 men to Tsingtao and apparently persuaded General Han to reconsider his decision. General Liu Chen-nien, controlling 35,000 troops, remained in independent possession of eastern Shantung, impartially accepting consignments of munitions from both sides. In Kwangsi, the "Ironsides", concentrating at Kweilin and Liuchow, apparently were planning another attack on Canton, although, at the same time, threatened from the rear by Yunnanese forces, which were reported to have captured Nanning at the middle of the month. Marshal Chang Hsueh-liang continued to hold aloof.

As in June, there was extensive communist and bandit activity in July. Under normally peaceful conditions and with a reasonably efficient administration communist doctrines cannot take root in China. For instance, Mr. Chen Kung-po, an influential member of the Left Wing of the Kuomintang, stated, during July, that even members of the Left Wing are not communists, and that "only an idiot or a mad man would deem communism workable in China."

Mr. Wang Ching-wei, the leader of the Left Wing, came to Peiping in July for conferences with the leaders of the Northern coalition. In interviews here, he redefined, in the following terms, the combined aims of the liberals and their present associates, the conservatives of north China: "If we want to complete the national revolution, there is no alternative but to overthrow the personal dictatorship of Chiang Kai-shek."

The Northern political leaders were occupied during July with plans for the creation of a formal governmental organization but there was no indication of an intention either permanently to divide the country



or to return the capital to Peiping. Civilian activity of this sort, however, remains subject to military developments.

#### BANDIT AND COMMUNIST DISTURBANCES

The numerous cases of banditry and of communist and/or "Red" activity reported during the month gave evidence of a state of lawlessness which was considered by many people to be as great if not a greater affliction than the continuing civil war itself. As might be supposed, the disturbances were especially severe in places where the local garrisons had been reduced by war concentrations. Hunan, Hupeh, Kiangsi, and Honan were particularly affected and there was considerable danger to Americans living at interior points in those provinces.

On July 28th, a band of some ten thousand communists, under Peng Teh-hwai, took the city of Changsha, Hunan, and, in the days following, systematically looted the city and burned many public buildings and destroyed much Chinese and foreign property, including the Japanese Consulate. All Americans were safely evacuated with the assistance of the U. S. S. *Palos* and other foreign naval vessels with the exception of a member of the Hunan Faith Mission, who refused to leave. The Legation telegraphed the Minister for Foreign Affairs of the Nanking Government, suggesting that early action for the relief of the city would result in checking the otherwise anticipated destruction of the important American missionary, educational and commercial establishments in the city. At the end of July, however, it did not seem as though the Nanking Government was in a position promptly to take effective action. The exact extent of the damage done was not known at that time. Nanchang, Kiangsi, was threatened also, and press despatches at the end of the month forecast the possible taking of Hankow by communist bands.

The Nanking Consulate reported that there was promise at the end of July of excellent crops throughout the whole of the Yangtze Valley and the adjacent agricultural regions but that lawlessness in large areas in addition to the continuing military operations threatened to curtail the harvesting and marketing of the main crops which will mature in late August and September. Aside from the possibility of disturbances incident to the possible collapse of the Nanking Government as at present constituted, the Consulate pointed out that the extent to which the Yangtze valley regions might reasonably be expected to return to comparative order in the near future depended considerably (1) on the extent to which farmers will be able to harvest their crops and (2) on the somewhat doubtful ability of the responsible military leaders, when the civil war comes to an end, to pay and maintain discipline among troops rendered intractable by war hardships and privations.

# ENLARGED PLENARY SESSION OF THE CENTRAL HEADQUARTERS OF THE KUOMINTANG OF CHINA

A significant development of the month was the fact that it was felt to be possible and timely to hold an inaugural meeting, in Peiping on July 13th, of the "Enlarged Plenary Session of the Central Headquarters of the Kuomintang of China." The specific purposes of this conference (composed of representatives of the Kuomintang opposed to the Nanking Government under General Chiang Kai-shek) were understood to be:

1. To invalidate the work of the Kuomintang as carried on under the leadership of General Chiang, especially the Third National Congress of the Kuomintang which convened at Nanking on March 15, 1929.

2. To make preparations for convening a "legal" Third National Congress through which a civilian, democratic, and truly representative government will be established.

3. To signalize the consolidation of the interests of the Left and Right wing members of the party with a view to assisting in carrying out the immediate objectives of the Northern military leaders.

It was rather difficult to estimate the extent to which the representatives participating in the conference could speak for the Kuomintang as a whole since there was reason to suppose that many members, adopting an opportunist policy, would be influenced by the course of events in the continuing and still indecisive conflict between the Northern coalition and the Nanking Government. Apparently disinterested observers estimated that the conference gave expression to the views and convictions of fifty per cent of the members of the party or, in other words, that fifty per cent of the members of the party were opposed to Chiang Kai-shek. The first formal meeting was scheduled for August 7th.

After explaining the significance of the plenary session, Dr. Tchou Ngao-hsiang,<sup>25</sup> "Director of the Department of Foreign Affairs" of the Northern coalition, stated in an interview with foreign correspondents that plans were being drafted and discussed for the early establishment of a formal government. Dr. Tchou recalled the following four general principles in Marshal Yen Hsi-shan's governmental program:

1. Maintenance of peace and order and suppression of bandits, so that life and property can be made safe.

2. Purification of the civil service and eradication of avarice and corruption, in order to establish a clean government.

3. Reduction of taxation by abolishing all extra and oppressive taxes which might prove too much a burden to the people.

4. Publication of receipts and disbursements of all government offices, so that peculation would be rendered impossible.

<sup>25</sup> Also known as Chu Ho-hsiang.

A government founded on these lines, created by the combined votes of all factions of the Kuomintang, enjoying the full support of the military leaders, and having gone through all the formalities of legal procedure, was to be not only the "legal" but the "stable" government of China as a whole.

Shortly after the inaugural meeting of July 13th, Mr. Wang Ching-wei, the influential leader of the Left Wing of the Kuomintang, arrived in Peiping, from Hong Kong. In interviews and statements here he made a number of interesting observations which, at the risk of repeating what has already been stated above in this section, may be outlined as follows:

1. The main task of the enlarged plenary conference of the Kuomintang is to prepare the way for the convocation of the people's conference as urged by Dr. Sun Yat-sen in his declaration upon his arrival in north China in the winter of 1924, and also of the third national congress of the Kuomintang, since the one held in Nanking last summer has been repudiated by all the allied leaders. Mr. Wang maintains that at the citizens' conference the program and principles of the Kuomintang should be brought up for discussion and approval. If adopted they will become the platform of not a single party but of the entire nation.

2. The Kuomintang should recognize the right of other political parties to exist and carry on their activities, so long as those activities are not subversive of the social order or the form of government. (This is regarded as particularly significant, indicating as it does a great change in the way of thinking of the leader of the Left Wing. Up to the present, despite differences over the interpretation of the three people's principles of Dr. Sun, no leader of importance has felt impelled to question the stand that the Kuomintang, dominating the government, is the only ruling party in China).

3. He believes in a free press and strongly assails General Chiang Kai-shek for his alleged suppression of the freedom of speech and the press in Shanghai and other areas controlled by the Nanking Government.

4. Mr. Wang is in favor of Marshal Yen Hsi-shan as chairman of the new national government to be formed.

Respectfully yours,

NELSON TRUSLER JOHNSON

893.00/11158 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 29, 1930—2 p. m.

[Received August 29—1:35 p. m.<sup>26</sup>]

763. 1. No great change has occurred in the politico-military situation since my telegram No. 739 of August 22, 11 p. m.<sup>27</sup> A spectacular

<sup>26</sup> Telegram in two sections.

<sup>27</sup> Not printed.

but unimportant incident was the bombing of Peiping reported in my telegram No. 758 of August 28, 3 p. m.,<sup>28</sup> and previous. Several not fully substantiated reports were current during the week to the effect that Chang Hsueh-liang is to take part in the civil war. The American Consul at Harbin in a telegram of August 25, 4 p. m., stated that he had been informed that the Governor of Kirin had instructed Harbin by telegraph that North Manchuria, under instructions from Marshal Chang Hsueh-liang, should immediately despatch 8 brigades, 40,000 troops, south for campaign in support of the National Government.

In a telegram of August 27, 11 a. m., the American Consul [General] at Mukden, to whom the matter was referred, stated that Chang's orders to the Kirin Governor were denied at Mukden.

2. In a subsequent telegram dated August 27, 5 p. m., Mukden reported as follows:

"Harbin report regarding troop orders probably partially correct. However, my informant does not believe Mukden will abandon attitude of neutrality. States that whichever side wins, Mukden will be requested to take over increased areas south of wall, hence military preparations; information believed reliable."

3. The following strictly confidential telegram of August 28, noon, from the Consul General at Mukden was received today:

"Strictly confidential. According to reliable information, General Chang Hsueh-liang sanctioned the despatch a few days ago of a press message from Peitaiho to London to the effect that the growing Red menace may impel him to send Manchurian troops into China to crush Reds and to put a stop to useless civil war. In strict confidence, learned that General is deeply concerned over possible occupation of Hopei Province by Southern forces and is ready to forestall that contingency by moving troops into that Province in cooperation with Nanking should Northern troops be forced to evacuate present positions northern Shantung. He says there now seems to be no prospect of an early change in neutral attitude. . .

It is claimed that Hu Je-yu, [sworn] brother of General, will shortly take the position of Tsingtau Mayor."

JOHNSON

893.00/11180 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 10, 1930—5 p. m.

[Received 7:43 p. m.]

799. Following from the American Consul [General] at Mukden:

"September 9, 10 a. m. Reliably informed that Wellington Koo now here told the Minister of Foreign Affairs at Peking that he 'wished to

<sup>28</sup> *Post*, p. 180.

see termination of civil war [and] settlement of the political disputes by peaceful means, if need be through mediation or good offices of Mukden'. He is said to have suggested convocation of a people's assembly. Apparently he will not join Government. The trend of events seems to be toward a peaceful settlement of the war."

Announced [*Also*] :

"September 10, 11 a. m. Northeastern Political Council now assembled Mukden to reconsider attitude of Manchuria toward civil war. Reliably informed that peaceful occupation of Tientsin-Peiping area by Mukden forces in interest of Nanking is favored in high quarters in belief that it will hasten end of war. Yen's delegates made further offers of high positions to Mukden yesterday. Mukden's attitude expected to be decided shortly."

JOHNSON

893.00/11231

*The Consul General at Mukden (Myers) to the Minister in China*  
(Johnson)<sup>29</sup>

No. 348

MUKDEN, September 10, 1930.

SIR: Having reference to my telegram of today's date<sup>30</sup> regarding the convening of the Northeastern Political Council at Mukden for the purpose of reconsidering the attitude of Manchuria toward the civil war, I have the honor to submit further information on this subject. As was reported in the press, General Chang Hsueh-liang, the chairman of this Council, issued a call to the members to forgather at Mukden at an early date. General Chang Tso-hsiang, of Kirin, Wan Fu-lin, of Heilungkiang, Chang Ching-hui, of Harbin, and the other members except T'ang Yü-lin of Jehol, and Mo Te-hui, now at Moscow, have arrived. The much heralded conference whose sessions are expected to open today may upset the evenly balanced military duel between General Chiang K'ai-shih and Marshal Yen Hsi-shan and bring an end to the present civil strife.

As the Legation has already been advised, more particularly in my telegram of August 28, 12 noon,<sup>31</sup> General Chang Hsueh-liang is inclined to side with Chiang K'ai-shih but at the same time has no desire to see southern troops in occupation of the neighboring province of Hopei. Therefore, as has been confidentially learned, he is personally in favor of the occupation of the Tientsin-Peiping region by Mukden

<sup>29</sup> Copy transmitted to the Department without covering despatch; received October 7, 1930.

<sup>30</sup> See telegram No. 799, September 10, from the Minister in China, *supra*.

<sup>31</sup> See telegram No. 763, August 29, from the Minister in China, p. 30.

troops in the interest of Nanking, in effecting which no fighting is anticipated. Earlier in the present strife, Marshal Yen, it will be remembered, requested General Chang to occupy this region and his delegates are said to have again offered the control of Hopei Province to the General. Too, possibly, the difficulty of remaining neutral and the prospect of enhancing the prestige, if not the influence, of the Mukden Party are other factors which have inspired the calling of this conference.

According to available information, General Chang Hsueh-liang has uniformly refrained from expressing himself in favor of or interested in the formation of the Northern Government at Peiping. The northern delegates who approached him at Peitaiho on this subject were told, I have been informed, that he could neither approve or welcome the formation of the proposed Government as he is an official of the Nanking Government. The use of his name as one of the commissioners of the new Government was obviously without his consent and on September 5th he telegraphed Marshal Yen asking for an explanation. Admiral Shen Hung-lieh, slated as Minister of Navy, sent a similar message. It is possible that the Marshal will receive a definitive reply to these offers in a few days.

Both Dr. Wellington Koo, former Minister at Washington, and Lo Wen-kan, a former Cabinet Minister, have at the request of General Chang returned to Mukden from Peiping where they had gone on the invitation of Wang Ching-wei. No doubt they were asked to come here for consultation. As reported in my telegram of yesterday's date Mr. Koo has not accepted the cabinet portfolio proffered him and, it is understood, is not likely to do so. Dr. Koo is said to have stated at Peking that he "wished to see the termination of civil war and the settlement of political disputes by peaceful means, if necessary through the mediation or good offices of Mukden"; further that "all parties and groups should be invited to meet and devise means for the convocation of a people's assembly and for the framing and adoption of a national constitution; only then could a stable Government be formed." He is said also to have remarked that he could be of no use to China as a whole so long as fighting continued.

Lo Wen-kan, it is understood, although personally inclined towards the Northwestern faction is not likely to join the new Government if General Chang asks him not to do so.

I have [etc.]

M. S. MYERS

893.00 P.R./37

*The Minister in China (Johnson) to the Secretary of State*

[Extracts]

No. 456

PEIPING, September 12, 1930.

[Received October 22.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,<sup>32</sup> I have the honor to submit the following summary of events and conditions in China during August, 1930:

The most definite accomplishment of the month in the continuing civil war was the taking of Tsinan, Shantung, by Southern forces on August 15th. South of Tsinan on the Tientsin-Pukow railway, and between the Yellow river and the Tsinan-Tsingtao railway, a few isolated Shansi units held out. Generally speaking however Shantung passed into the control of the Nanking Government. In the Chefoo area of the province, General Liu Chen-nien maintained his independent attitude, but he did so with increasing difficulty. He was embarrassed in August by an order from Nanking to take part in a campaign against Shansi elements and being unwilling to obey and unable openly to defy the central government he is reported to have instigated and caused to be published fictitious reports of brigand activity in eastern Shantung as a situation supposedly demanding his prior attention. His prolonged hesitation to cast in his lot with one side or the other, while at the same time accepting money and munitions from both, apparently is proving more and more exasperating and he is said to have been marked for elimination at the first convenient opportunity by North and South alike.

Notwithstanding the advantage of Nanking's virtual control of Shantung, it was recognized that the issue in the conflict would remain in doubt as long as the Kuominchun under Marshal Feng Yu-hsiang, a force of some 200,000 disciplined and well-equipped troops in strongly entrenched positions, remained undefeated on the Lung-Hai front. They were not seriously engaged in August, but it appeared that General Chiang Kai-shek was planning a large-scale offensive against Marshal Feng in September.

The loss of Tsinan may have been one of the reasons why the Northern coalition redoubled its efforts to gain the support of the Mukden faction. Many rumors were current during August respecting the latter's impending participation, but most of them were to the effect that when Mukden entered the campaign it would do so on the side of the National Government. Some significance was attached, in this relation, to the fact that Hu Je-yu, a Nanking appointee who assumed office as mayor of Tsingtao on September 1st, was a "sworn brother"

<sup>32</sup> Not printed.

of Marshal Chang Hsueh-liang. However, the young Marshal did not depart from his neutral attitude toward the conflict and apparently had no intention of doing so. He could, of course, dictate his own terms were he to decide to take part.

The Northern coalition brought to completion its plans for the creation of a formal government, thereby departing from its original intention to take such action only after a decisive military victory. As dealt with more fully below, the Kuomintang conference, which met in Peiping several times in August, decided to inaugurate (early in September) a "National Government" along the lines of that existing at Nanking and headed by a State Council of which Marshal Yen Hsi-shan was to be the chairman. One of the gestures of the Northern leaders during the month along this line was to issue a "list of the diplomatic corps" containing the names of the foreign representatives accredited to the "Republic of China." The list was distributed among the various foreign Legations in Peiping with the request that the "Foreign Office" be apprized of such corrections or alterations as might be necessary.

The communist and/or bandit disturbances, especially prevalent in the Yangtze Valley, referred to in the summary for July, were almost as frequent during the period under review. Changsha, Hunan, which was captured and looted by communists at the end of July, was retaken by General Ho Chien, chairman of the Hunan provincial government, early in August. The city however was not freed of the menace of a possible recapture at any moment by undefeated communist bands in its vicinity reported to total 30,000 or 40,000 men.

An unimportant but spectacular incident was the bombing of Peiping at the end of August by two Nanking airplanes which flew over from Tsinan. Several bombs were dropped on the city but little material damage was done and there was no loss of life.

#### *Enlarged Plenary Session*

As indicated in the Legation's summary for July, an inaugural meeting of the "Enlarged Plenary Session of the Central Headquarters of the Kuomintang" was held in Peiping during that month. This conference, which was believed to give expression to the desires of fifty per cent of the members of the party, was brought into being by the Northern leaders with the hope of invalidating the work of the Kuomintang as carried on under the leadership of General Chiang Kai-shek. The Northern leaders hoped thereby to give greater substantiality to their own political activities. The conference had the active support of Mr. Wang Ching-wei, the leader of the Left Wing of the party.

The first formal meeting was held on August 7th. Three other formal meetings were held during the period under review. The



following is a summary of the manifesto issued after the first formal meeting:

(1) A people's conference will be called within the shortest possible time in accordance with the wishes of the late Dr. Sun Yat-sen.

(2) In the tutelary, or political training period, a provisional code will be promulgated by the Kuomintang government. The difference between the provisional code and the constitution, which will be adopted when the country is ready for a democratic government, is that the former is flexible and the latter fixed.

(3) The masses will be trained to self-government in accordance with the principles laid down in the *Chien Kuo Ta Kang*, or "the General Outline of the National Reconstruction," by Dr. Sun Yat-sen.

(4) The functions of the government and the Kuomintang will be definitely defined.

(5) The *hsien* primaries, the provisional assemblies, and the national convention will be called.

(6) Officials will not be restricted to Kuomintang members. Non-party men, who understand the *San Min Chu I*, will be enlisted to serve the Kuomintang government according to their ability.

(7) There will not be a highly centralized government. The duties of the national and the provincial governments will be defined.

At the fifth formal meeting of the Enlarged Plenary Session, held on September 1st, the "General Outline of Organization of the National Government" was promulgated. The National Government is headed by a State Council of seven members: Marshal Yen Hsi-shan (chairman), Mr. Tang Shao-yi, Dr. Wang Ching-wei, Marshal Feng Yu-hsiang, Marshal Chang Hsueh-liang, General Li Tsung-jen, and Mr. Hsieh Ch'ih. The last-named is the leader of the Right Wing, or Western Hills Clique. Mr. Tang Shao-yi's adherence was doubtful and Marshal Chang Hsueh-liang had not indicated his acceptance. The local propaganda organs announced that the "long-desired Government in Peiping may now be considered an accomplished fact." There was some talk of changing the name of Peiping to Peking again and placing the city, at any rate temporarily during the continuance of the anti-Chiang Kai-shek campaign, in a "metropolitan area."

#### *Military Forces in China*

According to a report by the Legation's Military Attaché, there were some 2,500,000 men under arms in China in August. . . .

Estimated total of the forces under arms in China, in August, not including irregulars . . . . . 2,524,200.

In July the figure was 2,486,200; in May 2,445,200; in February 2,102,700, and so on, showing a steady increase. In August, 1929, the figure was just under 2,000,000.

Respectfully yours,

NELSON TRUSLER JOHNSON

893.00/11195 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 16, 1930—10 p. m.

[Received September 16—1:16 p. m.]

818. Following telegram has been sent to American Consul General at Shanghai:

"September 16, 9 p. m. [Paraphrase.] Today Quo Tai-chi<sup>33</sup> called to say that it was very likely Mr. Tong Shao-yi<sup>34</sup> would approach you in order to transmit to the Legation a message for Wang Ching-wei. I pointed out, in reply, the possible impropriety if complying with such a request involved American officials in transmitting a message having a political character. It would appear advisable not to accept any message for transmission pending approval by the Department. Repeated to the Department. [End paraphrase.]"

For the Minister:

PERKINS

893.00/11195 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

[Paraphrase]

WASHINGTON, September 17, 1930—noon.

323. Your 818, September 16, 10 p. m. The Department does not desire the Consul General at Shanghai to transmit the suggested message if it is of a political character.

STIMSON

893.00/11220 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 25, 1930—6 p. m.

[Received September 25—10:38 a. m.]

852. Following from Reuter, Shanghai, September 25th:

"Marshal Chang Hsueh-liang, interviewed by a representative of the *North China Daily News* at Mukden, stated that his intention was vigorously to maintain the integrity of the customs and to secure that service from military interference.

He added: I have telegraphed to the Inspector General of Customs to take full control and to appoint his own commissioner and staff at Tientsin.

Marshal Chang announced that he was assuming control in North China for the purpose of protecting that region. His intervention he said had been delayed owing to the necessity of first arranging details with Nanking. He was working for an early cessation of hostilities

<sup>33</sup> Representative of Wang Ching-wei.

<sup>34</sup> Veteran member of the Kuomintang.

[in the] hope that with peace Nanking would take the necessary steps to inaugurate changes satisfactory to all classes and all shades of political opinion."

For the Minister:  
PERKINS

893.00 P.R./38

*The Minister in China (Johnson) to the Secretary of State*

No. 521

PEIPING, October 12, 1930.  
[Received November 19.]

SIR: In compliance with the Department's standing instructions, I have the honor to transmit herewith a Report on the Political and Military Situation in China for the month of September 1930.

Respectfully yours,

NELSON TRUSLER JOHNSON

[Enclosure]

*Monthly Report for September 1930*

1. THE POLITICAL SITUATION

The month of September witnessed certain changes which may mark a turning point in the fortunes of the Chinese Republic. In the first place, it saw the startling intervention of Manchuria, and in the second place it saw important—perhaps decisive—victories of the Nanking forces. Incidentally, it also comprised the abortive attempt in Peiping to establish a formal rival National Government.

In order to understand the somewhat confused currents and cross-currents which have made themselves felt it is necessary to examine the position of the present protagonist in the dramatic events which have taken place, namely Marshal Chang Hsueh-liang. It will be recalled that the "Young Marshal", as he has been referred to since the death of his father in 1928, has been the virtually independent ruler of Manchuria, i. e. the three northeastern provinces of Fengtien, Kirin, and Heilungkiang. South of the Great Wall he controlled only the small Lwan River triangle which adjoins the southernmost part of Jehol. Although barely thirty-two years old he has proved himself to be a man of considerable ability and force which, combined with some shrewd common sense and great wealth, enabled him to create for himself a rather unique role.

Ever since his father, Marshal Chang Tso-lin, had to give up Chihli in June 1928, at the close of his fourth and last intervention in the affairs of North China which also cost him his life, the Young Marshal had maintained an attitude of strict neutrality between the warring factions in China proper, although professing nominal allegiance to the National Government at Nanking. This policy of neutrality was

due to a number of causes, among which the following may be mentioned as probably the most weighty:

(1) Chang Hsueh-liang remembered that his father had never been able to find an ally south of the Great Wall whom he could trust;

(2) He suspected Marshal Feng Yu-hsiang (the "Christian General") not only because he had been his father's enemy in 1926, but also because of his former flirtations with Soviet Russia; while Yen Hsi-shan had fought his father in 1927;

(3) But he also distrusted General Chiang Kai-shek and the Kuomintang as at present constituted, because he did not believe in the latter's policy of making the Government a party monopoly; he feared the results of Kuomintang agitation and propaganda in Manchuria, both upon his own position and upon his relations with the Japanese; besides, it was Chiang who had forced his father to withdraw from Peiping in 1928;

(4) He feared that if he took sides he might cause a split among his own followers. It is well known, for example, that the influential old Governor of Kirin, General Chang Tso-hsiang, was in favor of conservative neutrality; that the Governor of Heilungkiang, General Wan Fu-lin, advocated supporting Feng Yu-hsiang and Yen Hsi-shan; while a small group of younger men favored the Nanking Government in the hope of gaining lucrative jobs and rapid advancement;

(5) Manchuria was by far the most prosperous and tranquil part of China and stood everything to lose and very little to gain by active participation in the civil war;

(6) Japan doubtless encouraged Chang's neutral policy as it would be against her interests to see Manchuria become a pawn in the senseless struggle for power between the great military groups.

Although both the North and the South constantly appealed to Chang very earnestly to support their respective causes, especially since the spring of 1930 when Yen and the Kuominchun (Feng) ousted the Nanking authorities from Peiping and Tientsin, the Young Marshal remained steadfast in maintaining his neutrality.

However, it was an *armed* neutrality. With a well trained army of some 400,000 under his command, it was obvious that the so-called "Northeastern Frontier Defense Forces"—commonly known as the Fengtien troops—would sooner or later exercise much influence over the course of events, even though they might not be called upon to do any fighting. And the immediate occasion for it came much sooner than anticipated.

The dreary civil war, which had been raging since April 1930, with unusual losses on both sides, was threatening to end in a stalemate when, on August 15th, by the recapture of Tsinan and subsequent operations, the National Government inflicted a serious defeat upon Marshal Yen's Shansi forces and gradually eliminated them as an obstacle to the southern advance. Yen Hsi-shan thereupon decided to

create a political diversion, presumably in the hope of restoring some of the prestige which he had lost on the Shantung front and, on September 1, 1930, at the fifth formal meeting of the "Enlarged Plenary Session of the Kuomintang Central Executive Committee" at Peiping, he established a new National Government, with himself as Chairman of the State Council. Yen, however, did not arrive in Peiping until September 7th and took the oath of office on September 9th at 7 a. m. (The early hour is said to have been chosen because of fear of air raids).

Whether Yen had been misinformed by his representative in Mukden as to Chang's attitude toward the Shansi-Kuominchun coalition, or whether he expected to force the Young Marshal's hand by a *fait accompli* is not clear and will probably never be known. But the fact remains that Yen boldly included Chang Hsueh-liang's name among the men who were to make up the State Council. This brought forth an immediate protest from the Young Marshal who telegraphed Yen on September 4th demanding to know why his name had been used without his permission. Wellington Koo, who was to become Minister of Foreign Affairs, and Admiral Shen Hung-lieh, who was offered the Navy Department, likewise declined, while Tang Shao-yi, the old statesman whose name also appeared among the Councillors of State, remained on his estates in South China and had no intention of coming north.

This left Yen with only Marshal Feng, whose support was lukewarm and who had not even come to Peiping to see Yen's inauguration, and Wang Ching-wei and Hsieh Ch'ih, the Left and Right Wing leaders, respectively, of the Kuomintang.

It should be remembered in this connection that in July 1930, the Right and Left Wings of the Kuomintang, which had split in 1925 on the death of Sun Yat-sen, had become reunited in Peiping at the invitation of Yen who thereby hoped to strengthen the Northern Coalition. Wang Ching-wei, who was an associate of Sun Yat-sen, has a considerable following among Chinese students and intellectuals, but is looked upon with suspicion by others because of his extremist views. The Right Wing of the Kuomintang or "Western Hills Faction" is led by Hsieh Ch'ih, and by joining the Shansi-Kuominchun combination too they formed the "Enlarged Plenary Session" mentioned above. Although the Left Wing favors the retention of Nanking as the capital, it would not object if a majority of the party decided in favor of Peiping.

Apart from the question of prestige and the hope of raising the morale of the Shansi troops, Yen was doubtless also influenced in taking this step by a desire to enter into more direct relations with foreign countries and possibly to negotiate a loan.

Yen's phantom government existed, at least on paper, for just two weeks when it was swept away as suddenly as it came into being by the decision of Mukden to intervene in Hopei (Chihli) and to occupy the Peiping-Tientsin area.

This decision apparently came as the result of a conference, the Northeastern Political Council, which met in Mukden at the invitation of Chang Hsueh-liang between September 10th and 17th and which was attended by the principal political and military advisers of the Young Marshal. On September 18th Chang issued his famous circular telegram advocating the cessation of hostilities. It was addressed to the leaders of the warring factions, as well as to the Central Kuomintang at Nanking, the heads of all provincial governments, and to all newspapers. It is not a very striking document and says very little beyond suggesting that "in order to undertake the reconstruction of China the first essential is to eliminate warfare", and appealing "to the various contending sides for an immediate cessation of hostilities". He has no concrete proposals to make, but adds: "The wise and virtuous in the country may express their views so that a permanent peaceful settlement may be made. If I have any views to offer I will express them from time to time. Let us cooperate to meet the crisis, for only thus can . . . the further degradation of the international status of China be avoided".

Although this telegram contained no intimation whatsoever that Chang Hsueh-liang had decided to intervene, the order for the mobilization of the Fengtien armies had already been issued and on September 19th the first troops entrained for Tientsin.

It is difficult to appraise the motives which actuated Chang Hsueh-liang in making this decision. The principal arguments in favor of his continued neutrality (see pages 3 and 4 above) of course still held good, and the Young Marshal would probably contend that there had been no real change in his policy and that he was still neutral. But he has undoubtedly been influenced by one or more of the following considerations:

(1) The "Ma Ting-fu Affair". About the middle of August, while the Young Marshal was at Peitaiho, a plot was discovered which involved the mutiny of General Ma Ting-fu's brigade. The general and two colonels were arrested and it is said that they had been offered a large sum of money by the National Government if they would go over to the National side. General Yu Hsueh-chung is also believed to have been implicated. Chiang Kai-shek, of course, at once disclaimed all knowledge of such a plot, but it did his cause much harm in the eyes of Marshal Chang who is reported to believe that it had been instigated by Nanking to cause friction between him and the Kuominchun.

(2) The capture of Tsinan by the National Army on August 15th. Shortly afterwards Chiang Kai-shek is said to have boasted that he

would be "in Peiping in a month". This may have alarmed the Young Marshal, for although he does not like the Shansi crowd very much, he prefers them to Chiang and the Kuomintang, chiefly because he considers them less meddlesome.

(3) Mukden, being a next-door neighbor of Soviet Russia, is very much worried by the growth of "communism" elsewhere in China. People in Manchuria feel that if Nanking were in control in North China it might not deal with the problem with any more success than it did in the South.

(4) Chang Hsueh-liang was determined to retain control of the Peiping-Mukden Railway, the most efficient and most profitable of all railroads in China.

Once the new policy had been adopted events moved with great rapidity. The first Manchurian troops reached the outskirts of Tientsin on September 20th; on the same day the Government in Peiping vanished and Wang Ching-wei and his colleagues left for Shihchia-chuang, a town some 170 miles southwest of Peiping on the main line of the Peiping-Hankow Railway. All of Yen's followers left for the province of Shansi with the intention of setting up a government at Taiyuan, its capital.

On September 22nd the vanguard of the Fengtien forces reached Peiping, and by the end of the month the occupation of the whole Tientsin-Peiping area had been completed. General Wang Shuchang, the Commander of the Second Army, was appointed Chairman of the province of Hopei, and he is assisted by six Commissioners, viz., for Civil Affairs, Finance, Agriculture and Mining, Commerce and Labor, and Construction. The Commander-in-Chief of the First Army is General Yu Hsueh-chung, with headquarters in Peiping.

This gradual and unobtrusive substitution of the Shansi forces and civil authorities by Mukden took place with exemplary order and discipline. Many Shansi officials remained until relieved by their successors and the whole procedure was executed with the utmost good nature and cordiality, some of the "invaders" even being entertained by the retiring officials! The train service between Peiping-Tientsin-Mukden only suffered slight dislocation for a few days.

It is obvious, of course, that a major operation of this nature could not have been carried out so peacefully if there had not been a full and friendly understanding between Mukden and the Shansi-Kuominchun faction. But to what extent had Nanking been taken into their confidence?

It is literally impossible to arrive at a safe conclusion from the published statements of the leaders themselves. The telegrams, proclamations, interviews, et cetera, which have appeared in the press merely form a maze of contradictions. Both sides have shown the same typical lack of realism in their propaganda, and the same inability of facing unpleasant facts.

Nevertheless, certain deductions may perhaps be made with a reasonable degree of accuracy. It is true that Chang Hsueh-liang has referred to himself as "an official of the National Government", and has said that he had full authority from Nanking to garrison North China "for the protection of the people". It is also true that Chiang Kai-shek has stated that "Mukden intervened in favor of the Central Government" and that a "complete understanding" existed between him and Chang.

On the other hand, Nanking may well wonder just how friendly the Young Marshal is disposed toward it. For did he not remain scrupulously neutral throughout the summer of 1930, when the Northern Coalition was victorious and when Nanking needed help most? He apparently only intervened when the Shansi cause seemed hopeless, with the result that his intervention may have saved the "rebel armies" from complete destruction at the hands of Chiang. It is therefore hardly surprising that the latter declined to make peace unless both Yen and Feng retired, and that he resumed the offensive on the Honan front with redoubled intensity. He is thus apparently determined to fight it out, and if he really knows his own mind he may succeed in eliminating Yen and Feng before the full effect of Chang's intervention can make itself felt.

That Chang Hsueh-liang would like to continue in the self-assumed role of peacemaker and mediator is clear. He is trying hard to have both factions think that he is holding the Peiping-Tientsin area in trust for either or both. It is an extremely clever maneuver, but whether it will succeed is another question. For at heart he is opposed to the Kuomintang dictatorship and will probably not allow any local party headquarters to function effectively in North China, as he fears their interference in the administration. Chiang and his advisers must know by now that the Young Marshal may acknowledge Nanking's sovereignty so long as it suits his interests to do so, but that he will not tolerate any curtailment of the complete autonomy of the North. Chiang also knows that he could probably not win against a combination of Mukden and the Kuominchun; hence his feverish activity on the Lunghai front. If he succeeds in eliminating Yen and Feng as important factors in the situation it is extremely likely that the Young Marshal's turn to be suppressed will come next. In that case the spring may merely see a fresh chapter in the interminable, sordid, and ruinously costly military drama which has been playing havoc with China for the past nineteen years.

## 2. THE CIVIL WAR

### *a. The Honan Front.*

The military operations have gradually been assuming proportions not hitherto known in this civil war. The Chinese armies in the field;



which in 1912 consisted of some 400,000 men, had grown to over 1,600,000 by 1929, while this year it is estimated that about 2,600,000 are under arms. And this staggering figure does not include the so-called "Red" armies and "Communist" bands which are roving in large numbers over Central and South China.

However, it would seem that Nanking's optimism in August was warranted by the turn events took at the front in September. It will be recalled that the Shansi forces under Marshal Yen Hsi-shan had suffered a really serious defeat in Shantung when they were thrown across the Yellow River, with much loss of men and equipment. This enabled the Generalissimo Chiang Kai-shek to move important forces from the front along the Tientsin-Pukow ("Tsinpu") Railway to Honan, along the Lunghai and the Peking-Hankow ("Kinhan") railways. The "Kinhan" front is held for the North by Marshal Feng Yu-hsiang and the Kuominchun troops, which now became Chiang's principal opponents.

Feng who, whatever his shortcomings may be in the game of politics, is a good military leader, realized the danger he was in and, instead of attacking Chiang as he had planned, withdrew to the Kaifeng-Chengchow area to meet the Southern thrust up the Kinhan railway. By the first week in September Chiang had concentrated some twenty-seven divisions in that area and launched a prolonged offensive. Severe fighting took place between September 7th and 16th, and although the Kuominchun troops are much better than the Shansi troops and offered stubborn resistance, the National forces were able to make slow but steady progress. About September 17th Feng counterattacked vigorously west of the Kinhan line, regaining some lost ground and inflicting heavy losses on the Government forces, but apparently chiefly to cover his retreat to Shensi. For [*Far?*] east of the railway he was obliged (September 25th) to surrender Lanfeng, one of the strongest Kuominchun positions on the Lunghai.

In the meantime Mukden's intervention had taken place, with the result that the Shansi-Kuominchun forces were deprived of their communications with the outside world through the port of Tientsin. On the other hand, it enabled them to shorten their line and to concentrate their entire forces on the Honan front. Marshal Feng was really still in a relatively strong position from a strategic point of view, but the Shansi divisions cooperating with him appear to have become lukewarm in their support . . .

It is not anticipated that any serious fighting will take place this winter. The Southern armies will probably not cross the Yellow River, but there will be some maneuvering for position. Feng, who is a former "Tuchun" of Shensi, is preparing to go into winter quar-

ters there, while Yen has withdrawn to his province of Shansi. Although neither of these two northwestern provinces is normally considered very important from a military or economic point of view, the presence of the "rebel" leaders there may give them considerable prominence in the near future.

*b. Shantung.*

Although the Tsinpu front has been practically eliminated as an active war zone, the military situation in Shantung is by no means clear. It is reported that the three "Grey Generals", viz. Han Fu-chu, Ma Hung-kuei, and Shih Yu-san tried in vain to make a "neutral zone" out of the province. General Han is himself a Northerner and used to be a supporter of Feng. But he broke with the latter after the withdrawal of the late Chang Tso-lin from Peiping in 1928 and allied himself with Chiang Kai-shek. His real motives and allegiance appear to be doubtful. Although he controlled the northern section of the Tsinpu Railway, he did little or no fighting to stay the Shansi advance in June and July 1930, and while nominally loyal to Nanking he repeatedly threatened to resign and to go abroad. However, the Generalissimo sent him reinforcements by sea through Tsingtao and, by appointing him chairman of the Provincial Government of Shantung, prevailed upon him to remain. He is now in almost complete control of the province and seems to have a working agreement with General Ma Hung-kuei, who is in command at Tsinan.

Ma Hung-kuei is the son of Ma Fu-hsiang, the Mohammedan General from Kansu, who as Governor of Anhwei was distrusted by Nanking and removed. He was given the nominal post of Chairman of the Committee on Mongolian and Tibetan Affairs, but declined it and is said to have joined his son. Both still have considerable influence in Anhwei.

General Shih is a native of Kirin (Manchuria) and is reported to be close to Chang Hsueh-liang from whom he has received large supplies of munitions. He had been friendly with Yen until the latter lost Tsinan, when Shih began to flirt with Nanking. His present attitude is somewhat doubtful, as is that of another general, Liu Chen-nien, who controls northeastern Shantung. Both are said to be negotiating with Marshal Chang Hsueh-liang to see how much of Shantung they can carve out for themselves, especially as they are not friends of Han Fu-chu.

It must be remembered in this connection that Mukden controls the fleet which has its headquarters at Tsingtao, a port nominally under the Nanking Government. By this means the Young Marshal's influence is also felt at Chefoo and will doubtless be felt at Weihaiwei.

As matters stand at present, there is every indication that there will be far more parleying than fighting in Shantung for some time to come.

*c. Kwangsi Operations.*

The Kwangsi rebels and so-called "Ironsides" continued to defy the Central authorities throughout the month of September. Their principal stronghold is Nanning, the capital of the province, which has been besieged for over two months by Kwangtung (Cantonese) and Yunnanese Government forces. Although it was reported that the city had been captured on September 26th, it appears that only one of the suburbs was taken. The garrison has been putting up a very stout resistance, despite great shortage of water and food. In the course of the fierce fighting in the early part of the month much damage was done to private property and most of the foreigners were evacuated.

It should perhaps be explained here that the Yunnanese are theoretically supporting the Nanking Government and are supposed to be under the orders of the Cantonese General Chen Chi-tang. But in practice the Chairman of the province, General Lung Yün, seems to be acting more or less independently. Yunnan controls the province of Kweichow, and as both are relatively poor provinces they are fairly safe from invasion and have therefore no desire to invite one by participating more actively in the civil war. Yunnanese cooperation with Canton has therefore been very half-hearted, except at Nanning where they have done most of the fighting. Their expedition into Kwangsi has been in the nature of an "opium war", merely to open up a safe and convenient trade route to the sea for Yunnanese opium.

Reliable information from the Kwangsi-Kwangtung front is difficult to obtain. It appears that Cantonese troops continue to occupy Wuchow but that their attack on Liuchowfu and Kweilin failed because Kwangsi forces out-maneuvered them. Several towns in southern Hunan, e. g. Kueiyang, Hengchow, and even Chuchow, were reported to be in the hands of the Kwangsi rebels, with the possibility of a threat to Changsha from the South. The principal Kwangsi leaders are General Li Tsung-jen—who was included in the list of State Councillors in Yen's "government" early in September—and generals Chang Fa-k'uei, Pai Ch'ung-hsi, and Huang Shao-hsiung. A report that they have made peace overtures has been denied by the Canton authorities.

### 3. "COMMUNISM" AND BANDITRY

In speaking of "Communists" or "Reds" in China, it must be borne in mind that the terms are rarely used in their technical sense, but rather loosely to denote lawless elements who have risen in various parts of the country against constituted authority. Nevertheless, it is true that there is—or was—a "Communist Party" (Kung Ch'an

Tang) in China which was quite active between 1925 and 1928 and which was inspired from Moscow. Soviet advisers were employed, particularly in the Canton Government, and were assisted by some Chinese students who had been educated in Soviet Russia. At that time Moscow dangled before a gullible Nationalist Government the prospect of the cancellation of "imperialistic" treaties, the abolition of extraterritoriality, and the confiscation of foreign banks and railways.

A radical change occurred in 1928 when the Nanking Government broke off diplomatic relations with Soviet Russia. Since then the Communist Party and its propaganda organs have only been able to exist surreptitiously and there has been very little direct Bolshevik influence. It is probable, however, that indirectly many threads of the Chinese revolutionary organizations still lead to Moscow through the Treaty Ports, such as Canton or Shanghai, where Soviet agents seem to keep in touch with the happenings on the various "Red fronts" in the interior. The Bolshevik newspapers are devoting much attention to China and are openly exultant at the increase of "Red" activities.

The congress of the Red Trade Union International ("Profin-tern") at its meeting in Moscow last August again asserted the intention of directing the Chinese masses against their "imperialistic oppressors" and the Chinese delegate, one Lu Hsiang, declared that a Soviet Government in China had become a practical possibility. At about the same time (August 1930) the second all-China conference of the MOPR (International Society in Aid of Revolutionaries) met at Shanghai and was attended by forty-five delegates, among whom were delegates from the Chinese "Red Armies", from the revolutionary students' league and from the "Red" labor unions in the Wuhan region. There has also been formed in Shanghai an "anti-Imperialist League" which has sent out an appeal to the Chinese "proletariat" to organize themselves for the fight against the "imperialists" and for the defense of Soviet Russia. Centers of the league have been established in a number of Chinese educational institutions, while special commissions have been created for propaganda work among Chinese and foreign troops, as well as among the Annamite police in the French concession. Two communist newspapers in Shanghai, the *Hung Chi-jeh* (Red Flag) and the *Kung Peh Pao* (National Light), printed and distributed many propaganda leaflets and secret instructions, but on September 27, 1930, the police raided their establishments and confiscated their printing equipment.

But it would be fallacious to ascribe too much importance to these activities and their possible connection with Moscow. The number of Chinese intellectuals who profess Communism is negligible, and although the Soviet device of the "Hammer-and-Sickle" is often used

by the marauding bands who call themselves "Communists", it is intended—ludicrously enough—chiefly as a badge of respectability in the hope of being classed as something above the category of common brigands!

In other words, the so-called Communism is not so much the *cause* of the present chaotic conditions in Central and South China, as it is the *effect* of certain fundamental conditions. In the first place, it is symptomatic of the general demoralization of all Asia which followed upon the collapse of the old dynasties from the Bosphorous to the Yellow Sea. And China, where during the last nineteen years civil wars have become endemic, is worse off in this respect than the countries of Central and Western Asia. The best troops in the country being immobilized in these endless civil wars it is but natural that the local administrative machinery should have become weakened. In many districts organized authority has broken down and organized banditry has taken its place.

The situation is further complicated by the fact that a grotesque and wholly unreasonable system of taxation, coupled with many illegal practices, is driving the peasantry to desperation. On the other hand, some of the regular troops are often unpaid and desert in batches, taking with them their rifles, munitions, and even machine guns. Combining with the peasants they carry on a private guerilla warfare against the Government, with no motives beyond the desire for plunder. They loot, kidnap for the purpose of holding for ransom, and will not stop at murder. Whenever they capture a town they try to release all prisoners and to destroy the court records by burning the Government offices. There is naturally also much wanton destruction of private property.

These widespread and serious disorders are, of course, quite beyond the power of the provincial authorities to control, as they are themselves in constant danger of being overwhelmed. The outlaw forces often consist of large, well-armed bodies of men with considerable military experience and under able commanders. They are very elusive and whenever possible avoid a pitched battle with Government troops. The Nanking Government is constantly engaged in punitive expeditions against them, and those who are caught are dealt with with implacable severity. However, until a decisive victory on the Northern front releases important regular troops these "Communists" will continue to form a "fluid front" in the South. And even then repressive measures alone will not suffice unless they are also accompanied by remedial action.

During the month of September "Red" armies were operating chiefly in the provinces of Hupeh, Hunan, and Kiangsi, with minor movements in Kwangsi, Kwangtung, and Fukien. In Kwangsi bandit

forces are helping the rebels against Yunnan. (See page 18, above). On the middle Yangtze they control both banks from Chinglingki to Shasi, and constantly fire on all passing ships, including naval vessels, with rifles and trench mortars. Threats to Changsha and Nanchang were renewed, and even Hankow appeared to be in danger at one time. General Ho Ying-chin has been made commander-in-chief of the Government forces operating against the bandits, while General Ho Chien under him is directing operations in the Changsha area and northeastern Hunan. Ho Chien does not seem to be a competent man and has made little headway beyond beating off the second attack on Changsha. His forces are believed to number about 30,000 men, who are opposed by at least an equal number of "Reds" under General Tang Sheng-min. The other important "Red" leaders are Chu Teh and P'eng Teh-huai—both in Hunan. The month under review ended with the "communists" in possession of the strategic points of Liuyang, Chuchow, and Liling in Hunan, and of Kionli and Kingchow on the Yangtze above Hankow. Bandits had also cut the railroad between Yochow and Changsha, and in Hupeh between Sinyangchow and Hankow.

893.00 P.R./39

*The Minister in China (Johnson) to the Secretary of State*

No. 600

SHANGHAI, November 17, 1930.

[Received December 17.]

SIR: In compliance with the Department's standing instructions, and in continuation of the Legation's despatch No. 521 of October 12, 1930, I have the honor to transmit herewith a Report on the Political and Military Situation in China for the month of October, 1930.

Respectfully yours,

NELSON TRUSLER JOHNSON

[Enclosure—Extracts]

*Monthly Report for October 1930*

1. THE POLITICAL SITUATION

(a) *Chiang Kai-shek and the Prospects of Unification.*

With the successful suppression of the last and most formidable rebellion the National Government of China has entered upon a crucial period of political reconstruction. The crisis which had seriously imperiled its very existence has passed and has left Nanking with enhanced prestige and with decided prospects of controlling most of China. This, in turn, should have a good effect upon internal trade and public finances.

It is, of course, possible that—as has so often happened in China—the present situation may pass away without bringing any permanent change. It is possible that the last civil war has exhausted the Central authorities physically and financially so completely that the line of least resistance will again be chosen, ending in compromises and arrangements which settle little or nothing.

Even at best the task will not be an easy one. For China is still ridden by particularism, i. e. by a narrow provincial outlook which accentuates the differences of economic status, temperament, and dialect. The Northerners have an instinctive dislike and disdain for the soft Southerners, while expressions like "Shansi clique", "Fengtien armies", "Kwangsi generals", etc., are indicative of the jealousies of certain provinces or groups against the predominant group, all of which furnishes the intriguing militarists and politicians an opportunity to exploit the situation for their own selfish ends.

Much will depend upon the character of General Chiang Kai-shek, President of the State Council and Commander-in-Chief of the National forces. It must be recognized that the victory over Feng Yuxiang and Yen Hsi-shan is largely a personal triumph for him. He had always maintained that a decisive military victory was the only cure, and his refusal to parley with the northern coalition at a time when even Mukden counseled peace and compromise has been amply indicated. He has proved himself to be a man of unusual courage and determination, while his personal leadership at the front throughout the campaign won him the confidence of his troops. To show that he is not easily swayed by his emotions the Chinese say of him "he never sheds a tear until he sees the coffin".

Chiang's personality can perhaps to a certain extent be judged by extracts from some of his recent utterances. Thus on October 3, 1930, when victory seemed already assured, he sent a telegram from the front to the National Government in Nanking advocating an amnesty for all rebel leaders, except Yen Hsi-shan, Chen Chiung-ming, and the communists. In this telegram he makes the following interesting declarations:

"With peace near realization, the question of punishment and reward should be based on considerations of generosity and magnanimity. A new start should be given to all who have taken sides against the Government. . . . I am not free from reproach and should, therefore, not be hard on others. I realize that I have not always commanded the confidence of all and that I have made errors of judgment in the conduct of affairs as well as in the employment of men. . . . Severe punishment is not the only means of exterminating the reactionaries, for with the suppression of the militarists all reactionaries will lose their support. I am confident that they will respond if the Government forgives their past and gives them a new start in life."

This was followed on October 10th, on the occasion of the 19th anniversary of the Chinese Republic, by a circular in which he outlined the principal tasks confronting the country. He stated:

"The Central Government which is entrusted with the task of building a new state in China, should address itself to the work of reforming the administration immediately after the campaign against the rebels is brought to a close. . . . I am firmly convinced that the present war is the last one fought for the cause of unification in China. . . . Let me outline what I conceive to be the imperative needs of the moment from the standpoint of both the people and the Government:

(1) Suppression of Communist-Bandits.

. . . I intend to demarcate the country into definite areas and to entrust the work of clearing each district of bandits to responsible commanders so that none of them will be able to shift his responsibility. . . . It is my expectation that the country should be rid of all communist-bandits within three or six months at the most. . . .

(2) Reorganization of Finance.

The Government has repeatedly gone on record as favoring the adoption of a budget and an auditing and accounting system. . . . Concerning the expenditures and revenues of the central and provincial governments, full publicity should be given in order that the people may have a clear idea of the accounts. Besides, the unification of the currency of the country and the abolition of likin should be effected within the shortest period possible. . . .

(3) Purification of Administration.

The two greatest evils afflicting officialdom today are the dilatory way in which the officials go about their duties and the prevalence of corruption. . . . the result of the inability of the Government to make a clean sweep of all of the accumulated evils of the past. The hopes of the people have thus been disappointed. . . .

(4) Development of National Economy.

. . . In recent years the aggressive economic policy of the imperialistic Powers have combined with the influence of the reactionaries to wreck the foundations of industry. . . . We should absorb foreign capital in the development of China's industries under mutually profitable and equitable conditions. . . .

(5) Enforcement of Local Self-Government.

. . . Very little has been accomplished in this direction. Indeed, the failure of the Government in this regard is responsible in no small measure for the audacious attempts of the militarists, politicians, and Mandarins to browbeat the people. . . . The period of political tutelage should be completed at an early date and true democracy be brought into existence."

On October 14th General Chiang Kai-shek issued a statement entitled "Consolidation of National Unity and Preservation of Peace." In it he pointed out that it was the aim of the Government to effect the



reconstruction of the State on the basis of Sun Yat-sen's "Three People's Principles", and continued:

"The Government will hereafter welcome and follow as much as possible the views of the people, insofar as they are not in conflict with the Three People's Principles and the fundamental principles of national reconstruction. Threats of force, however, to back up any such proposal will not be countenanced. . . . Any attempt on the part of any military entity to disrupt the national unity should under no circumstances be tolerated. . . . Military units, constituting as they do the armed forces of the nation and not of private individuals, should naturally be used only for the welfare of the entire nation. Violation of this fundamental principle amounts to sedition and rebellion. . . .

The Party will, on the one hand, carry out the program of political tutelage in order to pave the way for democracy and, on the other hand, seek the cooperation of the entire people in the execution of various political programs. It is not, and never has been, the policy of the Party to disregard public opinion or to deny any qualified citizen the right of participation in public affairs. . . .

If revolts against the Government are considered merely as factional disputes, and no distinction is drawn between the rebels and the Central Government, the foundation of national unity will never be consolidated nor can peace be permanently preserved. . . . It is hoped, therefore, that henceforth our compatriots will change their present attitude of apathy to one of frank criticism. All views, whether constructive or critical, insofar as they are not in conflict with the teachings bequeathed by the late Party Leader, will be followed and acted upon. Those who are willing to shoulder the burden of government jointly with the Party will also, if found qualified, be welcomed."

And on October 20th, after his return to Nanking from the front, he made the following unusually frank statements which have created something of a sensation:

"There are no limits to political improvement. We must seek progress every day. We have many weak points and if we know them and correct them there will be hope for us.

We have frequently been criticized on the ground that we know only how to talk but not to perform, and how to draft paper schemes but not to carry them out; indeed, if we examine our record during the last few years we cannot but admit that there is some truth in the criticism. . . .

Party leaders should abide by the regulations of the Kuomintang and should not consider party organizations as special organs to be exploited for personal purposes. There is a general feeling abroad that Kuomintang members only work for self-aggrandizement and do not care a fig about the interests of the people or the country. This accounts for the large measure of popular dissatisfaction with our Party."

Reference must also be made here to Chiang's recent conversion to Christianity. There had been no intimation of such a possibility and it took everybody completely by surprise. It should, however,

be remembered that Chiang's wife is a Christian and that she is the daughter of Mrs. K. T. Soong. The latter's husband became a Christian many years ago and at one time was pastor of a Methodist church. Their children were brought up in the Christian faith, among them being T. V. Soong, the Minister of Finance, and T. L. Soong, Chairman of the Whangpoo Conservancy Board. It is interesting to note that General Chiang Kai-shek is the third son-in-law of old Mrs. Soong who has embraced Christianity, the others being the late Dr. Sun Yat-sen and Dr. H. H. Kung, the Minister of Commerce, Labor and Industry. He is also the third Chinese general to become a Christian, following in this respect in the footsteps of Feng Yu-hsiang, the Kuominchun leader, and Chiang Chih-chiang, the Chairman of the National Opium Suppression Commission. Chiang was baptized on October 23rd in his mother-in-law's home at Shanghai by a Chinese pastor of the Southern Methodist Church. Dr. C. T. Wang, the Minister for Foreign Affairs, who is also a Christian, witnessed the ceremony. The strictest secrecy was observed and no mention of the event was permitted in the Chinese press. It is probable that the Generalissimo was actuated solely by personal motives and that no political significance need be attached to the step. But in view of the intense persecutions the missionaries are at present suffering in the interior at the hands of bandits, and the anti-religious educational policy of the Nanking Government, the conversion of the head of the State is not without its dramatic poignancy.

(b) *Nanking and Mukden.*

The elimination of Feng Yu-hsiang and Yen Hsi-shan as factors of immediate political consequence leaves the fate of China in the hands of virtually only two outstanding figures, viz. President Chiang Kai-shek in the South and Marshal Chang Hsueh-liang in the North. It is true that neither Feng, with his genius for campaigning and his uncanny faculty for making his soldiers follow him even without pay, nor Yen, the old feudalist whose political astuteness has enabled him to survive twenty years of storm and stress, have officially retired or resigned. But they no longer cooperate, and there are rumors that Yen is negotiating with Mukden while Feng may join the Nanking Government. It will be remembered (see page 3, above<sup>35</sup>) that Feng was included in the Generalissimo's amnesty proposal, but Yen was not. Chiang Kai-shek has always been more bitter against Yen than Feng, besides being still a little afraid of the latter's military talents. On the other hand, both Yen and Feng may decide to go abroad, and it is rumored that Chiang has offered Feng \$3,000,000 (Mex.) if he would do so.

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<sup>35</sup> See p. 50, fourth paragraph.

The National Government knows, of course, that it cannot afford to quarrel with Mukden, for apart from the possibility of driving Yen and the Shansi faction into Chang Hsueh-liang's arms, it seems extremely likely that the so-called "Grey Generals", e. g., Shih Yu-san, etc. (see page 15-16, Legation's Despatch No. 521, October 12, 1930<sup>80</sup>), would have to side with Mukden.

Mukden's invasion of North China—which was discussed in the Legation's report for September—may have been peaceful, but it may be doubted whether it was disinterested. The Young Marshal's public statements as to his plans and aims have been too meagre and ambiguous to be very helpful, beyond indicating a desire on his part to assume a "correct" and benevolent attitude towards Nanking. There seem to be many powerful but invisible factors at work beneath the surface whose influence it is impossible to gauge.

Outwardly the relations between the Manchurian warlord and the Central Government are very friendly. On October 9th Chang Hsueh-liang took the oath of office as Vice Commander-in-Chief of the National Armies, a title which was formerly held by Marshal Yen Hsi-shan, and which had been conferred upon Chang last June, but had been ignored by him. He now pledged himself to support the National Government and to submit the names of his principal appointees to Nanking for approval, while the Generalissimo reciprocated by decorating a number of prominent Mukden officials and by appointing others to positions of authority under the Central Government. Military orders of importance are now signed by both Chiang Kai-shek and Chang Hsueh-liang.

In an effort to legalize this situation General Chiang sent the Young Marshal a telegram on October 21st, of which the following is a summary:

"1. In view of the long distance between Nanking and north China, the government entrusts the final settlement of all political, military and financial problems in Hopei, Honan, Shansi, Shensi, and Kansu provinces to the hands of the Mukden administration subject, of course, to the final approval of the central government.

2. In view of the coming convocation of the joint Plenary Session of the members of the Central Executive Council and of the Supervisory Committee of the Kuomintang as well as the 4th Plenary Convention of the all-Kuomintang Party, Marshal Chang is requested to draw up concrete plans for the final dissolution of the Yen-Feng-Wang alliance and also the reorganization of the Kuominchun and the Shansi armies for consideration and approval.

3. If possible, the Mukden leader should avail himself of the occasion to pay a visit to Nanking so that all national questions can be discussed and settled in person, or he should thoroughly discuss them with General Wu Tien-cheng who has, therefore, been ordered to remain at Mukden for some days after his return from Peiping."

<sup>80</sup> *Ante*, pp. 38, 45.

It was not believed, even by well-informed people, that Chang Hsueh-liang would accept the invitation to go to Nanking, but that a meeting between him and the Generalissimo would take place at Weihaiwei or Tsingtao. When questioned by a newspaperman regarding such a possibility the Young Marshal admitted that he would meet Chiang "in the near future to discuss arrangements for putting the stabilization of China on a sound and peaceful basis. There is no foundation for the rumored friction between General Chiang and myself."

Yet it would be idle to pretend that ample possibilities of friction do not exist. In the first place, it is well known that Chang Hsueh-liang dislikes the one-party system which was imposed upon the country by the Nationalists when the latter were under Soviet influence. He, therefore, favors a thorough reorganization of the Kuomintang, whose district councils (Tang-pu) he will not permit to interfere with the local administration. But there is a graver peril: Chang may sooner or later yield to the temptation of perpetuating his present military power north of the Yellow River by organizing a Northern Government of his own, and by creating an army strong enough not only to destroy all other military groupings in China, but to protect Manchuria against Russia and Japan. Incidentally, both Mukden and Nanking may be strongly influenced in their relations with each other by their respective attitudes towards Soviet Russia. Mukden may insist, for example, that Chiang instruct the Chinese delegation in Moscow more in accordance with the Young Marshal's ideas on the subject of the Habarovsk Protocol and the Chinese Eastern Railway.

The future will depend largely upon the degree of cooperation between Nanking and Mukden. Together they could doubtless prevent further civil wars, provided the National Government does not insist too strongly upon asserting its authority in the North, and the Young Marshal is willing to support the Kuomintang without insisting upon too radical reforms. But—as has been aptly said by a recent observer—"sound reasons of State and a consideration of the future welfare of China count for little compared with the urgent need of ready money and the opportunity of obtaining it."

### *(c) The Kuomintang and its Critics*

When Marshals Yen Hsi-shan and Feng Yu-hsiang challenged the régime at Nanking to mortal combat last spring they did so with the avowed purpose of defending the principles of Sun Yat-sen and of rescuing the Kuomintang ("People's Party") from dominance by a clique headed by Chiang Kai-shek. However, they were careful to state that they were not revolting against the party itself but merely against the dictatorship of one man who had gained control of one

section of the party. By this means they sought to preserve their own standing within the Kuomintang, and at the same time to gain the support of all those opposed to the Generalissimo on personal grounds.

The immediate object of the revolution, namely the elimination of Chiang Kai-shek, was not attained, but it would be misleading to assume that the victory of the government in Nanking brought about complete unity and harmony within the Party. On the contrary, there are today in the Kuomintang many dissentients who, because they lack the courage of Feng and Yen to fight in the open, are privately intriguing with the Opposition. Chiang, as we have seen (page 6, above<sup>37</sup>), admits many of the shortcomings of the government, but has doubtless felt that he had a right, if not a duty, to use the resources of the country for the purpose of strengthening his military position and of maintaining himself in power, and that until the rebellion was quelled all questions of reform or reconstruction must wait.

## 2. MILITARY EVENTS

The civil war of 1930 may be said to have ended with the occupation of Sianfu, the capital of Shensi, by government troops on October 27th, 1930, although there had been little fighting since the middle of the month. . . .

The greatest problem now confronting the Nanking government is the disbandment of all superfluous troops. Several divisions which have been withdrawn from the Honan front are being concentrated in the Wuhan (Hankow) area to be used for the suppression of banditry, (see page 19, below), and some of the former Kuominchun generals have been appointed "bandit suppression commissioners". The danger is that if the troops are disbanded on too large a scale and are without provision for their absorption in peaceful occupations they may join the "communists". After so many years of a demoralizing life—half soldier, half bandit—many of them have probably become unfitted for regular employment. They will have to be dispersed very gradually and cautiously, even though their presence causes great congestion and the occupation of much private property by the military.

## 3. "COMMUNISM" AND BANDITRY

Although official reports usually minimize the dangers of the situation and constantly claim successes against the "Red" bands that prey upon the helpless population in many of the southern provinces, evi-

<sup>37</sup> *Ante*, p. 52.

dence before the Legation seems to indicate that the month under review saw an increase in the insecurity prevailing in these provinces. Their ascendancy in certain regions of the Yangtze Valley appears to be quite unchallenged, especially on the river between Kiukiang and Ichang, where passing ships are constantly being fired on, and lights and beacons have been removed in the hope of capturing ships that might run aground. It is officially announced that during the months of September and October there were no fewer than 107 instances of merchantmen being fired on above Hankow, and this does not include numerous encounters which the gunboats of various nationalities have had. Fortunately the fire from the banks is not very scientifically directed or the damage would be considerable.

Whole villages continue to be wiped out, the well-to-do inhabitants being carried off as hostages or killed, but since the sack of Changsha the bandits have shown a disinclination to attack the larger cities. They captured Kian, Ining, and Tungku in the early part of October, leaving a trail of fire and pillage. Kingtehcheng was also looted and burned and nearly all prominent inhabitants were murdered in cold blood.

Outrages on foreigners are also becoming more frequent, and not for many years have there been so many missionaries in captivity. The brutal murder of two British women missionaries, Miss Eleanor J. Harrison and Miss Edith Nettleton, who had been kidnapped in June, was followed on October 5th by the capture at Kwangshan of the Rev. Bert N. Nelson, an American missionary, who is still held. The government garrisons in southwestern Honan, especially those of Sinyang and Loshan, were instructed to effect Mr. Nelson's release but apparently did nothing. Nelson is now reported to be held at Hwanggan, in the province of Hupeh. Miss B. Evenson who was captured at the same time was released on October 23rd on the payment of \$3000 (Mex).

This outrage was, in turn, followed on or about October 12th by the capture at Kian of a number of French and Italian priests and nuns, including a Bishop and a Filipino sister by the name of Ramos. The Catholic fathers were tied together, paraded through the streets, and beaten by the bandits. A fantastic ransom of \$10,000,000 (Mex.) has been claimed by their captors.

Altogether 21 foreigners are being held to ransom in the Hankow consular district alone, and the Central authorities do not seem to be making any determined efforts to effect their release.

Most of the missionaries at Nanchang have been evacuated to Kiukiang, but the latter place too was in danger towards the end of October. The government forces in that area, mostly Hunanese of doubtful loyalty, have been instructed to hold Nanchang and the railway to Kiukiang.

Some anxiety is also being felt for the safety of the missionaries at Kanchow, in Kiangsi, while both Nanchow and Hwayung, in Hunan, were occupied by bandits (October 22nd).

In Fukien conditions have been getting worse, especially in the northern and western districts, while along the coast pirates have been active. The National Government has stopped the monthly subsidy which it used to send to Foochow for bandit suppression.

Even in Manchuria bandits and communists have recently been more than usually active and have been cooperating with Hunghutze bands, while in northern Manchuria a considerable amount of Soviet propaganda was in evidence.

In an interview with a representative of Reuter's on October 24th, the Minister of Foreign Affairs, Dr. C. T. Wang, stated that all the information at his disposal showed that the communists in Central China were seeking out and attacking foreigners, particularly missionaries, in a deliberate effort to embroil the National Government with the Foreign Powers. He said he had requested diplomatic representatives more than once to advise their nationals to leave the danger points, adding that he admired the courage, but not the wisdom, of the missionaries in remaining in places where very disturbed conditions rendered it impossible for them to carry on their labors. He added that the Red movement was well coordinated and equipped, necessitating a military campaign and the employment of large bodies of troops for its suppression.

The Government is said to have already prepared 12 divisions for a vigorous campaign against the outlaws: six have been moved into Hupeh, two into Anhwei, and four into Kiangsi. It is reported that they will tackle Kiangsi first, but it is to be hoped that they will preserve a little more secrecy than in the past regarding their plans, for the newspapers have been discussing freely the disposition and movements of the government forces, which are therefore also doubtless known to the communists and their agents.

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893.00 P.R./40

*The Minister in China (Johnson) to the Secretary of State*

No. 680

PEIPING, December 18, 1930.  
[Received January 28, 1931.]

SIR: In compliance with the Department's standing instructions, and in continuation of the Legation's despatch No. 600 of November 17, 1930, I have the honor to transmit herewith a Report on the Political and Military Situation in China for the month of November, 1930.

The foreign relations of China will form the subject of a separate report.

Respectfully yours,

For the Minister :  
**MAHLON F. PERKINS**  
*Counselor of Legation*

[Enclosure]

*Monthly Report for November 1930*

1. THE POLITICAL SITUATION

(a) *Chang Hsueh-liang at Nanking.*

During the month under review the "Sick Man of the Far East" may be said to have entered upon a period of convalescence. Although civil wars in China usually begin in the spring, the Chinese have always shown remarkable powers of recuperation between their periodic upheavals, and without entertaining any inordinately sanguine hopes, it may be reported—as a local paper cautiously phrases it—"that something almost like peace has temporarily descended upon China".

The two outstanding events of the month which warrant a certain degree of optimism have been the visit of Marshal Chang Hsueh-liang to Nanking and the resolutions of the Fourth Plenary Session. Of the two the former has undoubtedly been the most significant, for by his decision to accord personal and public recognition to the National Government the Young Marshal has given proof of exceptional courage and patriotism.

Chang Hsueh-liang arrived in Nanking on November 12th, almost unexpectedly, for the greatest secrecy had been preserved regarding his movements and nobody knew even a few days before his arrival whether he would meet President Chiang Kai-shek at Tsingtao or at Nanking. He was accompanied by his wife and his younger brother, Chang Hsueh-ming, the Chief of the Bureau of Public Safety in Tientsin, and was received by the Executive with ceremonies and honors due an equal rather than a subordinate. Although he brought with him a bodyguard of 1000 men he moved about freely and fearlessly and created an excellent impression by his innate modesty and disarming smile. November 12th being the 65th anniversary of the birth of Sun Yat-sen he attended a commemorative celebration at the Central Kuomintang Headquarters, but declined to make a speech. To the newspapermen he stated briefly:

"I have come to get a glimpse of the new National Capital and make the closer acquaintance of the Party and Government leaders, many of whom I have not yet had the pleasure of meeting, and to



place myself entirely at the disposal of the Central authorities. I hope to have many conversations with President Chiang Kai-shek and other leaders of the Government, so as to enable me the better to do my part in the work of peace and national reconstruction for the country and the people."

He did not attend the opening of the Fourth Plenary Session as he is not a member of the Central Executive Committee. Nevertheless, he repeatedly expressed a desire to work earnestly in collaboration with the National Government and agreed to serve on the Commission for the consolidation of foreign and domestic debts.

However, his principal work was done at numerous informal conferences with Chiang Kai-shek and other party leaders, and although no statement was ever issued as to the nature of the understanding reached, it was soon evident that Chang had wholeheartedly aligned himself with the central authorities. Together they made some kind of working agreement which must have covered such fundamental questions as the division of revenue, railways, and military establishments between the North and the South. The Young Marshal is understood to have agreed to permit Nanking to collect the salt and tobacco revenues in Manchuria, and to limit his army to 150,000 men, to be called the "Frontier Defense Force". The management of railways was also satisfactorily settled by giving Nanking the control of the Peking-Hankow Railway (with its head office at Hankow), and of the Tientsin-Pukow Railway as far as Tsinan. Chang will control the Tsinan-Tientsin section, the Tsingtao-Tsinan Railway, and all other lines north of the Yellow River. The train service, both to Hankow and to Pukow, which had been interrupted since February 1930, was resumed early in November, and it was decided to facilitate contacts by through trains between Mukden and Nanking and by an air service.

But by far the most important single problem discussed by the two leaders at Nanking was the rehabilitation of Shansi and Shensi, the two provinces recently in revolt. It will be recalled that Marshal Yen Hsi-shan, the head of the Shansi faction, had been "Tuchun" of Shansi since 1911 and by his excellent administration had won for himself a great following among the people. He had been successful in saving the province from the ravages of the civil wars for nearly twenty years, and it was not until Nanking bombing planes attacked Taiyuan and other cities last October and November that the people themselves suffered any casualties. It will also be recalled that Yen in turn relied in the last civil war upon the support of the Kuominchun forces from Shensi under Marshal Feng Yu-hsiang.

Both were outstanding figures, and although both announced their retirement in the first week of November, considerable mystery surrounds their plans. They have doubtless been playing a waiting game,

hoping perhaps that the Young Marshal's pilgrimage to Nanking would fail, in which case they would have offered to join him against the government. On the other hand, the fact that Chang Hsueh-liang had never been willing to fight or disarm them lent color to the suspicion that he was shielding them in case he should have any trouble with Nanking in the future. A considerable portion of Feng's army is still intact and what is left of Yen's forces has been kept on a war footing. The National Government therefore realizes that so long as Feng and Yen remain in the country they will always have to be reckoned with as disturbing elements, and it hopes that, as a result of its understanding with the Young Marshal, it will now be able to force them to go abroad. It is said that Chang has agreed to undertake the rehabilitation of Shansi with the assistance of Generals Shang Chen and Hsu Yung-chang, and that the Shansi and Kuominchun armies will be reorganized as a "Northwest Frontier Defense Force".

In a circular, dated November 4th, Marshal Yen announced his retirement with the following interesting declaration:

"In order to strengthen the party and the state as well as in order to return the country's politics to its normal road, I have tried to induce Generalissimo Chiang Kai-shek, General Feng Yu-hsiang and Mr. Wang Ching-wei to resign from their respective posts, thereby creating democratic party politics. But, this attempt was frustrated owing to stubborn opposition on the part of the Nanking Kuomintang leaders and I was forced to meet them in the battlefield.

"Once the war was started, I was shocked to see the miserable plight of the people suffering from the inevitable development of warfare and I have now realized that it is practically impossible to hope for the improvement of politics through civil war.

"Furthermore, continuation of war was made unnecessary owing to the fact that the opposition faction has practically recognized our propositions. I have lost nearly all of my military strength. Consequently, I have decided to transfer the administrative powers in Shansi, Chahar, Suiyuan, Shensi, Kansu and Chinghai to the competent authorities."

Chang's visit to Nanking has undoubtedly done much to eliminate possible sources of dissension and has opened the way towards genuine cooperation between the North and the South. The danger of a fresh civil war has greatly diminished, not only because of the solution of problems which concerned more particularly the Marshal and the Generalissimo, but principally because Chang's presence in the capital during the meeting of the Fourth Plenary Session strengthened the hands of the reform elements. It constitutes one of the few instances since the Revolution when a powerful Northern leader has succeeded in making his influence felt in the councils of the Kuomintang.

On November 16th Chang Hsueh-liang made an eloquent appeal for peace and unification when he addressed a meeting of the Central

Kuomintang Headquarters. He concluded his remarks with the following solemn declaration which he delivered with great earnestness:

"As a result of my conversations with General Chiang Kai-shek we have come to an understanding that hereafter peace must be preserved in China at all cost. Warlike measures are only adopted by the lowest of animals and the most uncivilized nations. If we can preserve peace in China for five or ten years great progress can be made. I have come to the decision that I shall make every effort to support the Central Government and preserve peace in the country, even if I have to make the supreme sacrifice, that of my life."

The wisdom of Chang's moral intervention at Nanking is as clear as was the wisdom of his physical intervention south of the Great Wall last September. Both actions have been decisive. He has given the Nanking Government the sense of security it required to enable it to plan the constructive program which will be referred to under the next heading.

*(b) The Fourth Plenary Session and Reforms of the Kuomintang.*

In accordance with the wishes of President Chiang Kai-shek the Fourth Plenary Session of the Central Executive Committee of the Kuomintang met at Nanking on November 12th and sat until November 18th. As pointed out in the Legation's Report for October (see pp. 3-6 <sup>38</sup>), Chiang was obviously anxious to remedy as many defects in the Party as possible, but the frank avowal of guilt and almost pitiless self-accusation which followed went further than such declarations usually do in China. The presence of the Young Marshal, who is known to be bitterly opposed to the deadening obstructionism of party pride and privilege, has of course had much to do with it. But he evidently found a strong ally in the person of the Generalissimo, as will be seen from the following extracts from Chiang's statement issued on the occasion of the opening of the Plenary Session:

"It is my firm conviction that, with the successful conclusion of the recent punitive expedition, permanent unification of the country is assured. . . .

"It is in the lethargy and incompetence of the lower Party headquarters that the main shortcoming of the Party lies. The reason why Party members not only cannot inspire respect and confidence among the people, but have instead become the object of general dislike and hatred, is to be found in the fact that most of the Party members have not learned to be good and righteous men. . . .

"The fact that—in spite of the state of corruption into which Party affairs have degenerated, and notwithstanding the existence of such supervisory and directive organs as the supervisory committees, and the various judicial organs—not a single case of impeachment and prosecution of corrupt officials (with the exception of the ring-

<sup>38</sup> *Ante*, pp. 50-52.

leaders of rebellions) has so far taken place fully bears out my contention. . . .

"Suffering, as I have been, from many shortcomings as well as the fact that I did not have the privilege of joining the Party at an early stage, I have myself in the past not asserted my own views and opinions to the detriment of . . . . No one realizes more than I do my own shortcomings and blunders. What I mention above is the result of a self-examination of my own past conduct and may, therefore, be looked upon as an act of self-confession. . . .

"In so far as it is not in conflict with the principles of the Party, every man in the country should be given the opportunity to serve the State. . . . It should be realized that our only implacable and irreconcilable enemies are the Communists, the militarists, and Imperialists, and that the youths who have blindly lent themselves to the support of such enemies should still be given a chance to render service in tiding the country and the Party over the troublous times. . . ."

And on November 25th, as President of the Executive Yuan—in succession of the late Tan Yen-kai—he was even more outspoken in his exhortations:

"Government officials must no longer find any excuse for shirking their responsibilities. If the state of confusion and inactivity obtaining in the Administration remain unrectified, the Government's efforts for military rehabilitation, bandit-suppression, and enforcement of district autonomy would be doomed to failure.

"The shortcomings in the present Government administration may be recapitulated as follows: (1) lack of clear demarcation of the duties of various government organs; (2) prevalence of nepotism in the employment of public servants; (3) ignoring the orders of the superior government organs; (4) indolence and irresponsibility; (5) prevalence of corruption; (6) encroachment upon the rights of the people and (7) reluctance to do anything likely to incur the enmity of colleagues.

"Party members should refrain absolutely from encroaching upon the sphere of other government organs . . . they should be above corruption . . . and strict economy of public funds should be practiced.

"Government officials should not lavish favors on their own personal relatives to the detriment of the country nor should they shield the rapacious and the corrupt on account of personal friendship. . . .

"Should any one be found guilty of negligence of duty, encroachment upon the jurisdiction of other government organs, fraudulent misrepresentation in budgets, violation and disregard of laws and discipline; or corruption and nepotism; I will, in fulfillment of the responsibility entrusted to me by the Revolutionary Government and in order to uphold discipline, deal sternly with such delinquent officials regardless of personal considerations."

In the meantime a Manifesto to the Nation had been adopted and published at the final meeting of the Plenary Session on November 18th, and it was immediately followed by a Circular from the Central Executive Committee to all branch headquarters and members of the Kuomintang. Both reveal the evils from which the Party has

been suffering and show that Chiang and the Young Marshal had succeeded in imposing their will upon the Plenary Session.

The Manifesto is a very lengthy document, but its main points may be briefly summarized as follows:

(1) A National People's Convention is to be called for May 5, 1931, the anniversary of the inauguration of Sun Yat-sen as President of the Chinese Republic. This People's Convention will be virtually a Constituent Assembly which may promulgate a Constitution to take the place of direct dictatorship by the Kuomintang, although it may well be a long time before the political power will revert to the people.

(2) General Amnesty for all political offenders, except Communists. This is based on the ground that "the services of all men of real talent and ability must be enlisted", because of the "dearth and paucity of competent men, due to the absence of proper education and training". The country "cannot afford to let the limited number of talented men hold aloof from public service".

(3) Measures to remedy the "political stagnation and lack of administrative efficiency", by improving the morale of the officialdom and eliminating "the present state of lethargy and inactivity."

(4) Eradication of Communism and banditry, "the main cause of the sufferings of the people".

(5) Local self-government for the purpose of training the people to participate in local (village) autonomy.

(6) Re-demarcation of provinces with smaller jurisdictional areas than at present. It is suggested that some 70 new districts be created in which the powers of the governors would be greatly reduced and the authority of the Central Government correspondingly increased. This would tend to discourage semi-independent regions under feudal warlords whose sole idea is military aggrandizement.

(7) Abolition of likin in all provinces as from January 1, 1931, for the purpose of fostering commerce and industry in the interior.

The Circular of the Central Executive Committee is particularly severe in its indictment of Kuomintang abuses. It speaks of "three principal blunders" the members of the Party have been guilty of, viz. (1) the use of the Party as a "source of personal livelihood" by "insatiable" persons; (2) the use of district headquarters (Tangpu) as rival organs of the local government; and (3) improper speech and conduct towards the people, or "utilizing the masses as tools".

Similar in scope, only more explicit in its denunciation of acts of injustice and oppression, are the proposals formulated by General Chen Ming-chu, the Chairman of Kwangtung Province, and a number of other prominent Party leaders. They recommend, among other things, that (1) the authorities be strictly enjoined not to arrest persons or appropriate property without due process of law; (2) the officials or party members guilty of misconduct be not permitted to escape the jurisdiction of the courts; (3) that Labor Unions and Chambers of Commerce be prohibited from arresting or punishing their own members, or agents of employers against whom they have a

grievance; (4) arbitrary arrests by militarists to be forbidden, except where martial law is in force; (5) judges to be paid regularly and the courts to function without external interference; and (6) private individuals who have suffered injustice at the hands of officials to be able to obtain redress against the government through administrative courts.

Among the more important changes in the governmental machinery adopted by the Fourth Plenary Session may be mentioned:

(1) the decision that the Chairman of the Executive Yuan shall ex officio become President of the National Government;

(2) that all Cabinet Ministers shall ex officio become members of the Council of State;

(3) the creation of a Ministry of Industry, which is to include the former Ministry of Industry, Commerce and Labor, as well as the former Ministry of Mining and Agriculture;

(4) the abolition of the Ministry of Public Health and the creation of a Bureau of that name to be attached to the Ministry of the Interior;

(5) the installation of the Control Yuan, a department of the government which has existed on paper ever since Sun Yat-sen provided for it, but which has never been properly organized. It is to be independent of the executive, legislative, and judiciary branches of the government, among its principal functions will be the supervision of government accounts and the impeachment of corrupt officials.

Most of the Cabinet Ministers have been confirmed in their posts, despite frequent rumors that Marshal Chang Hsueh-liang had demanded the resignation of Dr. C. T. Wang, the Minister for Foreign Affairs. On the contrary, Dr. Wang has now also been made a full-fledged member of the Central Executive Committee, of which he had heretofore only been a substitute member.

The Ministry of the Interior, which had been vacant for some time, is now headed by Liu Shan-ching, a former Governor of Fengtien, while a new Minister of Education has been appointed in the person of Dr. Kao Lu, who is at present Minister to France. The former Minister of Education, Dr. Monlin Chiang, has been made Chancellor of the Peking National University.

As stated above, the Ministry of Agriculture and Mines has been amalgamated with the Ministry of Industry, Commerce, and Labor, but Dr. H. H. Kung remains as the head of the new Ministry of Industry. The Ministry of Public Health has been abolished and the former Minister, Dr. J. Heng Liu, becomes Director of Public Health instead.

The complete list of the Cabinet, as of November 30, 1930, therefore reads as follows:

1. Interior: Liu Shan-ching
2. Foreign Affairs: C. T. Wang (Wang Cheng-t'ing)

3. Finance: T. V. Soong (Sung Tze-wen)
4. War (Military Administration): General Ho Ying-ch'in
5. Navy: Admiral Yang Shu-chang
6. Industry: H. H. Kung (K'ung Hsiang-hsi)
7. Education: Kao Lu
8. Communications: Wang Po-ch'un
9. Railways: Sun Fo (Sun K'o)

(c) *The Opposition.*

The political alignments in Nanking since the cessation of hostilities have not been very clear. Little is known of what passed behind the scenes during the Fourth Plenary Session, beyond the fact that men like Hu Han-min (Chairman of the Legislative Yuan) and Li Shi-tseng protested vigorously against the immediate convocation of the People's Convention, on the ground that it had not been the intention of Sun Yat-sen that the people should be given the right to frame their own constitution until after the five-year period of political tutelage under the Kuomintang. Hu Han-min was on the special committee, with Chiang Kai-shek, Tai Chi-tao, and Wang Ch'ung-hui (Chairman of the Judicial Yuan), appointed to draw up a comprehensive political program, and it is understood that sharp differences developed as to the degree of constitutional representation which should be granted.

While an open split in the Kuomintang was avoided by the weight of Chang Hsueh-liang's influence, it has become increasingly evident that certain rights will have to be given to the Opposition if serious trouble is to be avoided in the future. It is not enough for the Party to cry "mea culpa" and "peccavi", unless it is willing to turn over a new leaf, improve the lot of the common people, and listen to opinions based on different interpretations of party principles.

So far not only have no changes been made in the central government personnel to meet any wishes of the Opposition, but three more prominent men, viz. Chao Pei-lien, Chao Tai-wen, and Chen Chia-yu, have been expelled from the Kuomintang for life. Nor have any overtures been made to Wang Ching-wei (see the Legation's report for September, despatch No. 521, October 12, 1930, page 6<sup>39</sup>) who is said to be in hiding in Tientsin and is planning to go abroad. In an interview which he recently gave to the press he made the following significant declarations:

"General Chiang accepted the three main objects on the attainment of which we have concentrated recently—namely, the People's participation in the Government, the calling of the People's Convention, and the convening of the Party Congress. These proposals were accepted in General Chiang's manifesto of October 3. Although Mukden did not put forward any concrete proposals when it issued the peace circular of September 18, it was generally understood that it fully agreed with these three objects.

<sup>39</sup> *Ante*, pp. 38, 40.

"But now it is reported that the Nanking Government is divided on the very issues referred to in General Chiang's telegram. One group considers the telegram to be an ignominious surrender to the enemies of the Government; being in fact merely another edition of the opposition's political programme. The group holds that by adopting it, the war waged by the Government ever since the Spring of last year has resulted in nothing except in the moral victory of the Opposition.

"The other group holds that there is no harm in calling the People's Convention and the Kuomintang National Congress, provided that the slogan shall be: 'No Party except *the* Party and no groups within the Party'.

"This implies the manipulation of both the People's Convention and the National Party Congress, thus serving the dual purpose of giving added power to the Nanking Government and of really defeating the enemies of the Government.

"If the Opposition to the Government is persistently ignored and persecuted, it will have no alternative but to resort to armed resistance. Government by persecution or government by persuasion is all the difference between despotism and democracy, and on the realisation of the democratic ideal depends the issue between war and peace in China. I sincerely hope that these observations will be seriously considered by all who have the welfare of the Chinese at heart."

Nor has the new Press Law, passed by the Legislative Yuan on November 29th, been calculated to inspire confidence in the desire of the government to be fair to anybody differing from it. For apart from prohibiting the publication of articles or news items "endangering public safety" or prejudicial to "good morals", it also prohibits the printing of anything that may be construed as an attack on the Kuomintang or Sun Yat-sen's "Three People's Principles", or that may be contrary to the interests of the Chinese Government and people. The authorities are empowered to confiscate any newspaper violating these provisions, to impose fines and imprisonment, and even to seize foreign newspapers and magazines upon their arrival in China if found to contain such objectionable matter. Officially, however, the National Government denies that there is any press censorship, but merely requires the "registration" of all newspapers in order—as Liu Lu-ying, the Director of the Propaganda Bureau, naively put it—"to prevent the press from being utilized by counter-revolutionaries and enemies of the government, and to facilitate government control of all press reports"!

While, therefore, the immediate prospects are distinctly encouraging and the unification of the country appears possible, if not probable, much remains to be done. It would be a pity if Nanking threw away an unprecedented opportunity by taking the attitude that the victory over the Feng-Yen coalition was a victory exclusively for the Kuomintang.



## 2. ARMY REORGANIZATION AND BANDIT SUPPRESSION

Some intensive air raids (November 21-24) against Taiyuan, the capital of Shansi, in order to force Yen Hsi-shan to leave the province, and some desultory fighting against the rebels in Kwangsi constituted the last operations of the civil war. The remnants of the Shansi forces are to be reorganized as the "National Border Defence Force", a task which has been entrusted principally to General Hsu Yung-chang. And the Fourth Plenary Session, in one of its numerous resolutions, abolished the "National Disbandment and Reorganization Committee", leaving all matters pertaining to the reorganization of the national army to be attended to by the "highest military organs", i. e. presumably the Commander-in-Chief.

The Nanking Government would therefore at last appear to be free to devote more attention to the problem which, now that the civil war is over, is by far the most serious and urgent it has to face, viz. the suppression of banditry and "communism".

The problem of brigandage has, of course, been an age-long scourge in China, but the admixture of communism in recent years has had a far more demoralizing effect on the people than is commonly realized. The general discontent of the peasants and the fact that the vast majority of the population have little or nothing to lose makes them a fertile field for subversive propaganda. Fortunately for the government the harvests this year have, in most provinces, been exceptionally good and plentiful. For if the people, exasperated by many years of oppression and savage depredations on the part of outlaws, had also to face a series of crop failures, it is not impossible that a social upheaval in the shape of an agrarian rebellion might take the place of the present apathy and indifference.

Until recently the Government has shown a surprising lack of determination in fighting the "Reds". Neither the various military units nor the provincial authorities seem to cooperate; the troop movements are slow and ineffectual; the leaders are jealous of each other; and the local officials are afraid to denounce communists in hiding for fear of reprisals when the government forces depart. Although the movement is no longer sporadic, the "Reds" are relatively few in number and are scattered over wide areas. It is of course too much to expect an effective policing of the whole country, but a little more energy in bringing guerilla marauders to book would have gone a long way toward more stable conditions.

President Chiang Kai-shek appears to be fully alive to the dangers of the situation and has decided to deal drastically with all forms of outlawry. He has placed himself at the head of the "Bandit Suppression Campaign" and will personally direct operations, with headquarters at Hankow. It will, of course, require time before his elab-

orate preparations and carefully laid plans can bear fruit, and the estimate of three, or even six, months is probably too optimistic.

In the meantime, however, General Chiang has already struck at many of the roots of the evil when he published (November 29th) an order to the various army units engaged in the drive against the "Communists", of which the following is a summary:

(a) There shall be no delay in carrying out orders or wilful withdrawal contrary to instructions;

(b) Troops shall not buy off outlaws with money or munitions, and secret sales of equipment by individual soldiers must stop;

(c) Soldiers must not molest the inhabitants, extort money from them, or interfere with the local administration;

(d) Troops must not incorporate bandits into their units, or even new recruits from the locality where they are stationed;

(e) Negligence or treason resulting in failure to protect a locality against outlaws will be severely punished;

(f) The higher officers will be directly responsible to the Generalissimo for their conduct, and meritorious work on the part of officers and men will be liberally rewarded.

And as the communist-bandits operate preferably along the borders of neighboring provinces—presumably because the divided responsibility on the part of the authorities facilitates their escape—the Generalissimo has appointed three "Pacification Commissioners": one for the Honan-Shensi-Shansi borders, one for the Honan-Hupeh-Anhwei borders, and one for the Hunan-Kiangsi border. These officials—all of them generals of experience—are to be in charge of the anti-Red campaigns in their respective regions and are to report directly to the Commander-in-Chief.

The news of outrages perpetrated by bandits have become so commonplace that they no longer arouse much attention unless accompanied by some particularly foul act of savagery. The month of November continued to witness the usual looting of villages and small towns, and the kidnapping and murder of innocent people. And although the greatest publicity is naturally given to crimes committed against foreigners, it is only fair to say that for every foreigner persecuted in the interior thousands of natives are suffering at the hands of the same malefactors. It is estimated, for example, that in the province of Kiangsi alone some 150,000 people have been killed within the last year or two, and that over 100,000 houses have been burnt to the ground.

Altogether some 24 foreign missionaries were held captive towards the end of the month, and no serious steps appear to have been taken by the authorities to effect their liberation or to punish such outrages as the murder of Miss Nettleton and Miss Harrison. In southwest Shensi an Italian bishop, Monsignor Soggiu, of the Franciscan Order, was murdered at Hingan on or about November 12th, but the Italian

Legation only heard of it on November 25th. Another Franciscan, Father Augustin de Gasperi, was captured at Sinchow (northern Hunan), while the Italian Lazarist mission at Hangchung (Shensi) was looted and the bishop with three fathers and six nuns are still in hiding in the hills. Father Thierney, the superior of Saint Columban's Mission at Kienchang (Kiangsi), some 80 miles southeast of Nanchang, was captured by bandits about the middle of November. Further north, near Paot'owchen (Suiyüan), an American, Mrs. H. D. Hayward, and her British nurse, Miss E. Gomersal, fell into the hands of bandits, but were rescued—largely through the efforts of the American and British Legations. Not far from there, at Kuantsun, several hundred brigands had attacked a train of the Peiping-Suiyuan Railway on November 17th, looted all valuables and the mails, and took some 40 passengers (all natives) into captivity.

Northern Hunan continues to be terrorized by Ho Lung and his hordes, but now that government troops are advancing against them they are expected to move further south, and possibly into Kwangtung. Of the larger places the Reds took Siangyin, after defeating the government troops, and threatened Changteh, Lichow, on the Hunan-Hupeh border, and Kwangchow, in southeastern Honan. On the other hand, the government claims to have retaken from them Siangyin, Weilo, Yuhsien and Pingkiang. Kian was recaptured by government forces on November 18th, but the communist leaders in that region, viz. Chu Teh, Mao Tse-tung, and Peng Teh-huai are still at large.

In Manchuria some Russian and Korean communists have given trouble.

### 3. FINANCIAL PROBLEMS

The rehabilitation of China will be impossible unless prompt attention is paid to the chaotic state of the country's finances. The cessation of civil war seems to have given rise to the belief in government circles that the State will from now on have unlimited means at its disposal with which to finance all kinds of costly projects (such as were proposed at the Industrial and Commercial Conference at Nanking, November 1-8) when, as a matter of fact, the government is practically insolvent.

It must be remembered that the burden of militarism has for many years been absorbing China's energies and resources. It is estimated, for example, that the last civil war (April-October 1930) alone cost the South at least \$(Mex.)200,000,000, while the North spent at least \$(Mex.)80,000,000. These staggering sums wasted in waging war were far beyond the means of the government and had to be raised by abnormal and often illegal taxation, which in turn throttled trade and caused a decrease in revenue from that source. Add to this the sensational

and quite unprecedented fall in silver, the world-wide business depression which has diminished the demand for Chinese products, the depredations of bandits who infest the roads in the interior and levy arbitrary toll on all merchandise, and it will be seen that the country is suffering from a number of serious economic and political evils which are sapping its life.

The deplorable state of the public exchequer will, of course, continue so long as military requirements are given preference over all others, and the authorities continue to make large purchases of bombing planes, armored trains, and other war material as they do at present.

Moreover, the burden of incorporating the Kuominchun troops in the national army and the contributions made towards the support of the Manchurian army are a heavy drain on the treasury. The disbandment of the hordes of soldiers now under arms, many of whom are unpaid, undoubtedly also constitutes one of the major problems the government will have to tackle in earnest in the immediate future.

When the Kemmerer Mission was in China in 1929 it estimated its total indebtedness at \$(Mex.) 3,028,477,000. Since then this sum has been greatly increased by extensive borrowing and the fall in exchange, so that today the total is possibly in the neighborhood of four billion dollars Mexican. The domestic, i. e. virtually forced loans, during the past few years have amounted to over \$(Mex.) 500,000,000, and hardly a month passes without a fresh internal loan. As these loans fail to attract investors their cost to the government is ruinous and the net proceeds are often only between 25% and 50% of the face value of the bonds! The bonds are distributed throughout the provinces, and the local authorities, native banks, et cetera, are compelled to take up blocks of them without any option of refusal. The provincial authorities in turn levy surtaxes, the receipts for which may on presentation be exchanged for bonds of like amounts. Another favorite dodge is to force the tenants in large cities to pay several months' rent in advance to government agents, the receipts for which are then declared a legal discharge from the payment of rent and can likewise be exchanged for bonds. Instances are known where landlords have in this manner been deprived of rent for the next two years.

The service of these short-term loans is an onerous one for the government. Thus one of the recent loans of fifty millions, issued under the name of "Rehabilitation Loan" on November 1st, bears interest at the rate of 8% payable monthly, which amounts to 9.6% per annum, and the final half-yearly amortization payment falls due in 1936. Incidentally, like several previous ones, this loan is in the form of customs treasury notes, but in this instance secured on customs revenue to be obtained from the new tariff which passed the Legislative Yuan on November 29th, and from which the government anticipates an annual

increase of about one hundred million dollars Mexican in customs receipts.

The result of this reckless borrowing has been that not only are there no funds available for reconstruction purposes, but the government is hard put to it to defray current administrative expenses, and many government officials have received no salaries for several months. Owing chiefly to the depreciation of silver, the original 5% customs revenue is no longer sufficient for the service of the foreign loans and the old domestic loans charged upon it, and the deficiency has to be made up from the additional revenue which would otherwise be at the disposal of the government for current expenses. But even this additional revenue is no longer intact because the greater part of it has been pledged for the service of recent domestic bond issues of the Nanking Government, most of which are due for repayment within five years.

The temptation is consequently very great for the government to tamper with ear-marked reserves in order to strengthen its domestic credit. But as a number of foreign loans are secured upon revenues which are thus being misappropriated for other purposes—notably the earnings of certain railways—it is becoming increasingly difficult for the government to maintain its credit abroad. And without foreign financial assistance China's recovery must needs be slow and uncertain.

The Chinese Minister of Finance, Dr. T. V. Soong, is an exceptionally able man and has been consistently advocating a policy of rigid economy in order to restore China's credit abroad. He is opposed to further borrowing for the present and has several times resigned because he did not feel that his advice was being heeded. But each time his brother-in-law, Chiang Kai-shek, has prevailed upon him to remain in office with the promise that he would be given a freer hand. Considering the enormous difficulties which Soong has had to contend with he has had a considerable measure of success. Among other things, he points with pride to the fact that as regards the service of the loans secured on the Salt Gabelle all interest payments will have been brought up to date when the October coupon of the Crisp Loan is paid in December of this year. He has also promised to attend to the amortization of the salt loans in the near future.

As regards the funding of unsecured and inadequately secured loans, the Minister of Finance was instrumental in calling a meeting in Nanking (November 15th) of representatives of interested Powers, principally for the purpose of complying with the Annex to the Sino-Japanese Treaty of May 6, 1930, which has reference to the so-called Nishihara Loans.<sup>40</sup> The Chinese Government expressed its readiness

<sup>40</sup> See pp. 580 ff., especially p. 587.

"to make a comprehensive settlement of its duly contracted obligations that are now in arrears", chiefly from the customs and railway revenues, over a period of thirty years. This meeting was followed on November 28th by the appointment of a "Commission for the Reorganization of Foreign and Domestic Loans", composed of the following members: Dr. Wang Chung-hui (Chairman), Dr. T. V. Soong, Dr. C. T. Wang, Dr. H. H. Kung, Mr. Sun Fo, Mr. Wang Peh-chun, and Marshal Chang Hsueh-liang.

We have already seen (page 23, above <sup>41</sup>) that the Chinese Government has decided to raise its import duties and to abolish likin (page 10, above <sup>42</sup>). It is understood that on the abolition of the latter (January 1, 1931) certain new taxes will go into effect, such as a factory and business tax, and taxes on special products (e. g. tobacco, liquors, etc.) to compensate for the loss of likin.

893.00 P.R./41

*The Minister in China (Johnson) to the Secretary of State*

No. 712

PEIPING, January 12, 1931.

[Received February 10, 1931.]

SIR: In compliance with the Department's standing instructions, and in continuation of the Legation's despatch No. 680 of December 18, 1930, I have the honor to transmit herewith a Report on the Political and Military Situation in China for the month of December 1930.

Respectfully yours,

NELSON TRUSLER JOHNSON

[Enclosure—Extracts]

*Monthly Report for December 1930*

I. THE POLITICAL SITUATION

1. *Conferences at Tientsin.*

While in November the center of the political stage was held by Nanking, in December all eyes were focused upon Tientsin where Marshal Chang Hsueh-liang has been conferring with the principal Shansi leaders regarding the rehabilitation of the Northwest.

The Young Marshal left Nanking on December 4th and arrived in Tientsin on December 6th, and although it was expected that he would remain only a few days, the end of the year found him still there. The length of his stay is probably due not only to the inherent difficulties of the problem but also to the fact that most of the leaders he sent for did not reach Tientsin until after the middle of the month, except General Yen Hsi-shan who had arrived on December 2nd in disguise.

<sup>41</sup> Ante, p. 71, last paragraph.

<sup>42</sup> Ante, p. 64, point (7).

Although both Yen and Chang denied that they conferred with each other in person, it may be assumed that they at least kept in close touch through third parties. At any rate, Yen's definite elimination was accomplished by his departure for Dairen on December 22nd. Besides his immediate family he was accompanied by Chao Tai-wen, the former Chairman of the Control Yuan, Lu Ti-jen, a former Finance Commissioner of Hopei, as well as Liang Ju-chow and General Sung Chi-yuan.

Before leaving Tientsin General Yen Hsi-shan issued the following statement:

"I am proceeding first to Dairen in order to spend the New Year holidays there. Then, I hope to go to Japan by way of Korea.

"As I have definitely retired from politics, I have no intention whatever to return into China's political life in future.

"I intend to devote the rest of my life to the development of the culture and social welfare of the country. In Japan I hope to make a thorough inspection of the social life both in the cities and in the country.

"After completing my inspection of Japan, I hope to go to Europe and America, making the tour of various countries lasting for about a year. On completion of my tour abroad, I will again visit Japan for a stay."

It is said that the Japanese Consul General in Tientsin obtained from him a written pledge to refrain from political activities while in Japan.

Among the other Shansi leaders with whom Chang has been conferring are Generals Shang Chen, Hsu Yung-chang, Fu Tso-yi, and Yang Ai-yuan (the former Chairman of Chahar).

The Kuominchun (Marshal Feng Yu-hsiang's troops) were represented by Generals Sun Liang-chen, Sung Chi-yuan, Peng Ping-hsun, Sun Tien-ying, Kao Kwei-tze, and Chang Tzu-chung. Feng himself never went to Tientsin and is still somewhere in Shansi.

In addition to the above the Young Marshal has summoned to Tientsin a number of minor officials, such as the finance commissioners of Shansi and Suiyuan, the Chairman of Jehol (General Tang Yu-lin), the "grey" General Shih Yu-san, and others.

Although these conferences have been held in secret and no details have been made public, it is understood that the following questions relating to the rehabilitation of Shansi and the remnants of the Kuominchun have been discussed:

(a) Disbandment of troops and distribution of garrisons. It is estimated that the Shansi forces still under arms number about 160,000 and the Kuominchun forces about 80,000. It is proposed to reduce both to less than 50% of their present strength.

(b) Financial arrangements. This involves the very troublesome question as to how much the troops are to receive (including arrears)

and who is to be responsible for this expenditure in the future. It is calculated that the monthly cost of the present military establishment in Shansi and of the Kuominchun is nearly \$(Mex.)5,000,000, while the revenues of the province amount to only about \$(Mex.)1,500,000 a month. The Shansi generals are demanding a minimum of three million dollars for the disbandment of their forces, and the Kuominchun leaders want nearly as much. The situation is complicated by the extraordinary depreciation of the Shansi paper currency (50% of its face value) and by the fact that the abolition of *likin* will considerably reduce the provincial revenues. It is said on good authority that Chang Hsueh-liang has appealed to Nanking for assistance in solving this knotty problem and that the matter has been referred to the Ministry of Finance. In the meantime the troops are suffering greatly from hunger and cold.

(c) Reorganization of the civil administration. It seems certain that General Shang Chen will be in charge of Shansi's political affairs which he has been handling since Yen's retirement. But as neither he nor General Hsu Yung-chang are natives of Shansi there is considerable local opposition to them. It is also expected that a number of appointees from Manchuria will be included in the new civil administrations of Shansi and Suiyuan.

It may well be doubted whether the Young Marshal, when he undertook the responsibility for the settlement of the military and political affairs north of the Yellow River, realized the extraordinary complexity of the problems. Nor can he be certain that either the engagements he entered into in Nanking or the decisions reached in Tientsin will receive the wholehearted support of his older colleagues in the three Northeastern Provinces. The latter have always been opposed to intervention in China proper (see the Legation's despatch No. 521, October 12, 1930, page 3<sup>43</sup>) and unless they receive some very tangible financial advantages they may make it difficult, if not impossible, to put into effect the most important of the commitments made by the Young Marshal. It is therefore expected that as soon as Chang returns to Mukden he will call a political conference, to be attended by the more important politicians and generals, for the purpose of submitting to them his ideas for the unification of China.

It was also inevitable that Chang's protracted negotiations with so many of the Opposition leaders who until recently had been in open rebellion against the Government should give rise to the suspicion that his prolonged stay in Tientsin may be a sign of incipient disloyalty to Nanking. Chang's own sincerity and patriotism are not doubted, but the men in the National Government know only too well that the Northerners are still instinctively opposed to the political doctrines

<sup>43</sup> *Ante*, pp. 38-39.



and pretensions of the Kuomintang, and that Nanking must be careful not to lose face by allowing the complete substitution of the Young Marshal's hegemony for its own authority in North China.

## II. MILITARY AFFAIRS

### 1. *Army Reorganization.*

The Military Reorganization Committee, of which President Chiang Kai-shek is chairman, has definitely decided to reduce the size of the national army as quickly as possible, both in order to remove the temptations which the existence of large bodies of troops puts before provincial warlords, and to cut down military expenditures. It appears that China has today a standing army of 280 divisions—the largest in the world—which costs the country, including local expenditures by the provinces, the stupendous sum of about fifty million dollars (Mex.) per month. It is now proposed to reduce the national army to 100 divisions, of which 60 will constitute the forces of the Central Government and 40 divisions of the "National Frontier Defence Forces" (i. e. Manchurian, Shansi, Kuominchun, et cetera). There are to be three categories of divisions: (a) divisions consisting of 3 brigades, 6 battalions, a regiment of artillery, transport, and a special regiment; (b) divisions of 2 brigades and 6 battalions; and (c) divisions of 2 brigades and 4 battalions. All special armies and divisions organized during the civil war will be disbanded and the war-time titles and posts of field-commander and army-commander will be abolished. The total cost of the army is not to exceed \$(Mex.) 12,000,000 per month.

It is to be hoped that this will prove a sincere effort to reduce China's armies to more manageable proportions and that means will be found to use the demobilized soldiery in the shape of "labor armies" for the execution of necessary public works, such as roads, railroads, and canals.

Incidentally, this should do away with the excuse for the occupation of the numerous foreign mission properties which are now being used by the authorities for the quartering of troops even where other buildings are available.

### 2. *Communist-Bandit Suppression.*

The day after Marshal Chang Hsueh-liang left Nanking for Tientsin (December 4) President Chiang Kai-shek started up the Yangtze River to organize in person the anti-Red campaign by which he is determined to rid Central China not only of communistic elements but of all ordinary banditry as well. Chiang spent several weeks in Kiukiang, Nanchang (Kiangsi), and Hankow, returning to Nanking on December 26th. He conferred everywhere with the leading pro-

vincial civil and military commanders and impressed upon them the necessity of employing only loyal and efficient magistrates, as he believed that the disloyal and incompetent ones had been primarily responsible for the widespread collusion between the authorities and the outlaws. The Generalissimo has already dismissed a number of officials and has ordered others to be tried by court-martial, notably General Ting Ying, the commander of the 13th Division, for his failure to hold Kian last October. On the other hand, he has offered liberal rewards for the capture of the principal communist leaders.

President Chiang realizes that bandit-suppression is still the most pressing task of the government, and that if these disorders are permitted to continue unchecked not only will his personal prestige suffer but there is a distinct danger of cooperation between the pseudo-communists and the dissidents from the Kuomintang. It is a difficult political, as well as strategic problem. Swift action will be necessary if the morale of the government forces is to be maintained. But the enemy is elusive—mostly local men who hide their arms on the approach of troops and melt into the general populace—and the resources of the government are by no means unlimited. 300,000 regular troops have already been poured into the Middle Yangtze area and three squadrons of aeroplanes are to assist them. It is not clear why the air forces were not used long ago to bomb the bandits out of their entrenched positions along the river. Nor is it clear why there seems to be no cooperation between the military and the Chinese river gunboats. The clearing of the river banks is apparently left almost entirely to the foreign gunboats.

In a few regions government troops have already achieved some successes. The town of Tungku (south Kiangsi), which has for two years been the stronghold of the notorious "Red" leader Chu Teh, was captured on December 19th, after two days' hard fighting. Anfu, another town in Kiangsi, and Yungting (Fukien) were also reported as retaken. On the other hand, communist-bandits captured the town of Sungtze (below Ichang) on December 19th, and the entire stretch of the river between Yochow and Ichang is still very unsafe.

Nine foreign missionaries, including the Filipino Sister Ramos, were released on or about December 25th as a result of military operations around Nanchang, but the American, Reverend Bert N. Nelson, and nine other foreigners are still in captivity. General Li Ming-chung is said to have received special instructions from the President to effect Nelson's release as soon as possible.

In North China another train outrage, following upon the one on the Peiping-Suiyuan line in November (see Legation's despatch No. 680, December 18, 1930, page 20<sup>44</sup>), shows that the North has its own banditry problems. On December 27th outlaws derailed a train on

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<sup>44</sup> *Ante*, pp. 58, 70.

the Chaoyang-Chinchow branch line of the Peiping-Mukden Railway, and after looting it set it on fire. Some 80 passengers were killed or injured and 20 were carried off by the bandits. This is said to be the worst train hold-up that has ever occurred in North China, and to prevent further disasters of this nature Marshal Chang Hsueh-liang is contemplating the organization of a large force of gendarmes, to be affiliated with the Northeastern constabulary under General Chen Hsin-ya. It would be an excellent thing if some such system of policing rural areas could later be introduced for the entire country.

### III. FINANCIAL PROBLEMS

#### *1. The Abolition of Likin.*

The National Government appears determined to redeem an old pledge of the Revolution and will definitely and permanently abolish likin as from January 1, 1931. This was decreed by the Fourth Plenary Session last November. (see Legation's despatch No. 680, December 18, 1930, page 10<sup>45</sup>) and marks an important step in the reform program of the present administration. Several previous attempts having ignominiously failed, it required considerable courage and self-confidence on the part of the Executive to insist upon it at this time.

It is generally admitted that likin has for many years been one of the worst handicaps from which the economic life of the nation has been suffering. For just as political and military feudalism found expression in the numerous provincial warlords and their armies, so financial feudalism was represented by the collection of likin and many other miscellaneous taxes—often unauthorized—which enabled the powerful vested interests of the local tax collectors to defy the central authorities. President Chiang Kai-shek, in a recent (December 27) circular telegram in which he begged the provinces to cooperate with the National Government in this matter, therefore expressed himself very forcefully on the subject:

"The institution of likin, it should be emphasized, not only increases the burden of the people and hampers the free development of trade, industry and agriculture, but constitutes also the inveterate foe to honest political administration and is the fountain-head of political corruption.

"To 'squeeze' and fatten themselves upon the Government revenue has become the common practice of likin tax-collectors; and extortion has been an accomplished art. It is by embezzling public funds and sucking the blood and flesh of the people that many of them now owe their magnificent mansions and the luxuries in which their wives and concubines freely indulge.

"It is therefore obvious that not until likin is abolished can purity in political administration be attained."

<sup>45</sup> *Ante*, pp. 58, 64 (point 7).

It is estimated by the Ministry of Finance that the loss of revenue to the National Government as the result of the abolition of likin and kindred imposts, such as taxes on railway freight and parcel post, internal customs duties, coast-trade and transit dues, et cetera, will amount to about \$(Mex.)100,000,000 per annum. But as these taxes constituted some of the principal sources of revenue for the provinces, the losses to the latter will be far heavier. It is anticipated that most of the provincial budgets will show big deficits in the coming year and the National Government has already promised to come to the rescue with subsidies, for which the increase in the customs tariff is to furnish the funds. Several provinces, especially in the North, have already petitioned the government to postpone the abolition of likin for another six months or a year—as so often in the past—but their request has been curtly denied.

It is now proposed to impose a special consumption tax—a law to that effect was promulgated in 1928 but never applied—and excise duties on a number of articles, such as cotton yarn, matches, and cement. But unless the provincial authorities are carefully watched they are almost certain to devise new taxes which may prove as burdensome as the old. Nanking should see to it that all taxation is consolidated and properly organized, in order to do away with the uneconomical and arbitrary methods of collection and the abuses resulting from illegal practices on the part of petty officials.

The main question is now whether the provinces are ready to respond and to make present sacrifices in the hope of obtaining future advantages. It will be a trial of strength of the first magnitude, for the provincial spirit is very strong and if the financial centralization planned by the National Government should arouse too much opposition, Nanking may be powerless to enforce submission.

## *2. New Internal Loan.*

In anticipation of the diminished treasury receipts upon the abolition of likin the Government decided on December 30th to float a new "Rehabilitation" loan to the amount of sixty million dollars (Mex.), in the form of Treasury Notes to be secured on the "Rolled Tobacco" (cigarette) excise duty. The interest rate is 8.4% per annum, i. e. the equivalent of seven per mille per month, and the redemption is to be completed June 30, 1937, by 78 monthly public drawings. The Notes will be offered at par, but as a special inducement to subscribers a discount of 2% will be allowed, making the issue price 98. The Notes will be bearer bonds in the denominations of \$10,000, \$1,000, \$100 and \$10.

The loan is being handled by the Bank of China, the Central Bank, and the Bank of Communications. The Consolidated Tax Administration has earmarked a portion of the Rolled Tobacco Tax, from the

amounts required for the service of the Rolled Tobacco Treasury Notes issued in March 1927 and April 1930, to be deposited regularly with the Central Bank for the account of the Sinking Fund Committee, to meet the payments due in accordance with the amortization table.

### 3. *Foreign Loan Payments.*

As promised by the Ministry of Finance (see Legation's despatch No. 680, December 18, 1930, page 24<sup>46</sup>), the interest payments on the loans secured on the salt revenue were brought up to date on December 18th by the payment of the October coupon (£114,890) of the Crisp Loan, and on December 24th payment was made of the drawn bonds of the Anglo-French Loan (£253,318). Since September 1929, five payments have been made, totalling £1,202,948, which cost the government \$(Mex.) 18,220,000. It is interesting to note that the Crisp bonds, which in August 1929 were quoted in London at 44, dropped to 28 in June 1930 (when the Feng-Yen revolt seemed about to succeed), and rose to 53 on December 17, 1930, upon the announcement that all maturities would be fully met.

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## MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA<sup>47</sup>

711.933/218 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 2, 1930—1 p. m.

[Received January 2—7:35 a. m.]

3. Department's 409, December 7, 6 p. m.<sup>48</sup> The Commander in Chief issued January 1 the following confidential instructions to the Commander, Yangtse Patrol and to the Commander, South China Patrol:

"In the event of an occurrence which is not in accordance with the treaties and understandings now in force, naval units in ports where no consular official is stationed should report such occurrence to the Force Commander and Commander in Chief, Asiatic Fleet and to the American Legation immediately and by priority despatch. Units concerned will be instructed by priority despatch by Force Commanders."

PERKINS

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<sup>46</sup> *Ante*, pp. 58, 72.

<sup>47</sup> Continued from *Foreign Relations*, 1929, vol. II, pp. 435-504.

<sup>48</sup> *Ibid.*, p. 642.

393.11/1053 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 9, 1930—3 p. m.  
 [Received January 9—9:05 a. m.]

28. Department's 419, December 18, 6 [7] p. m.,<sup>49</sup> was repeated to the American Consul at Shanghai with the additional statement made in the Department's 434, December 30, 6 [7] p. m.<sup>50</sup> Consul General has replied as follows:

"January 8, 5 p. m. I am very glad to receive for its guidance the clear statement of policy in regard to the protection of public utilities in Shanghai. The responsibility for the protection of public utilities necessarily rests with the municipal police in the first instance but when there existed fear that this should be inadequate in the past the responsibility for protection of privately owned utilities has been considered to be upon the forces of the nation concerned if available. The policy enumerated in the Legation's instruction is regarded as indeed equitable, but I venture the suggestion that during periods when conditions are tense the presence of an American or other foreign naval vessel at an anchorage nearby would have a very excellent moral effect. Though anchored at buoys frequently used it might even render unnecessary display of great protective force by police."

PERKINS

393.1163 Am 3/97

*The Chargé in China (Perkins) to the Consul General at Hankow  
 (Lockhart)*<sup>51</sup>

PEIPING, January 16, 1930.

SIR: The Legation has received your despatch L-891, of December 30, 1929,<sup>52</sup> concerning Communist uprisings and the protection of American interests in Kiangsi, wherewith was transmitted a copy of a letter addressed to your office by Bishop J. A. O'Shea, of Kanchow, Kiangsi Province, dated December 3rd, and a copy of your reply of December 30th.<sup>53</sup> You invite the Legation's attention to the request made by Bishop O'Shea that the Nanking Government be informed that his Mission will demand indemnity for damages inflicted on its property and that it be urged to send reinforcements to southern Kiangsi.

<sup>49</sup> *Foreign Relations*, 1929, vol. II, p. 500.

<sup>50</sup> *Ibid.*, p. 503.

<sup>51</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 2540, January 16; received February 13.

<sup>52</sup> *Foreign Relations*, 1929, vol. II, p. 504.

<sup>53</sup> Neither printed.

The Legation does not see that any useful purpose would be served by giving notice to the Government at Nanking that indemnity will be demanded for damages suffered by the Mission, and the Mission's right to demand indemnification is obvious and unquestioned. The situation described in Bishop O'Shea's letter in connection with the need for reinforcements was met in December. It is assumed that in case of another emergency notification would be sent by telegraph.

I am [etc.]

MAHLON H. PERKINS

393.1163/385 : Telegram

*The Acting Secretary of State to the Chargé in China (Perkins)*

WASHINGTON, January 24, 1930—5 p. m.

30. 1. United Christian Missionary Society plan to return two single women missionaries to Batang, western Szechwan, starting about end of March. Both women said to be experienced travellers and will travel with Canadian family to Chengtu and from there be escorted by Chinese or Tibetan mission helpers. Society requests information regarding present conditions in western China and attitude of Consul General at Hankow toward assisting these women to obtain necessary visas for their passports.

2. After making necessary enquiries reply by naval radio.

COTTON

393.11/1057 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 25, 1930—3 p. m.

[Received 3:33 p. m.<sup>55</sup>]

81. 1. Following from American Consul General at Hankow:

"January 24, 4 p. m. The following telegram has been received from Bishop O'Shea of Kanchow, Kiangsi:

Red armies occupy Shingkowo Nansze Chuan (Lungchuan) 50 miles from Kanchow. Reported advancing towards Kanchow. Local General has only 500 soldiers. Interviewed General, admits inability defend city. General begs you urge Nanking send re-enforcements immediately, situation grave. Bishop O'Shea."

Have taken up the matter direct with General Ho Ying-chin at Hankow."

2. I have replied as follows:

"January 25, 3 p. m. Your January 24, 4 p. m. Following telegram has been sent Ministry of Foreign Affairs, Nanking:

"January 25th. I have the honor to inform Your Excellency that a telegram received from Bishop O'Shea of the American Catholic Mission, Kanchow,

<sup>55</sup> Telegram in two sections.

Kiangsi, states that Red armies occupy Shing Chuan, three districts, 50 miles from Kanchow and are reported advancing towards Kanchow. General at latter place has only 500 soldiers and admits inability defend city. Situation grave. I accordingly have the honor to request Your Excellency to take immediate steps in order that the Americans concerned may safely withdraw.'

Legation does not feel that it can properly, at intervals of a few months, request the Nanking Government to send an army to Kanchow for the protection of the mission. In view of the chronically disturbed conditions in southern Kiangsi, I believe that you should advise Americans at Kanchow to evacuate as soon as they can safely do so."

For the Chargé d'Affaires ad interim:  
HEWES

393.11/1048 : Telegram

*The Acting Secretary of State to the Chargé in China (Perkins)*

WASHINGTON, January 29, 1930—11 a. m.

39. Your 1181, December 23, 3 p. m., and Department's 419, of December 18, 7 p. m., and Department's 434 of December 30, 7 p. m.<sup>56</sup>

1. With reference to channels of communication, if at a given moment the Shanghai Municipal Administration should affirm its inability to cope with a situation within the Municipality, the Department believes that it would be reasonable for it so to inform the Senior Consul and for such call as may be made for the aid of foreign armed forces present to be made through the Senior Consul to the senior officers of the foreign armed forces present. At the same time in so far as the question of the use of American armed forces is involved, the Consul General might reasonably take up with the Commanding Officer or Officers of American armed forces and with the Legation and the Department the question of special protection for American nationals and property.

2. The Department notes with gratification the statement of the Consul General's views in Shanghai's mail despatch 6240, November 7, 1929.<sup>57</sup> The Department has read with care Fleet General Order No. 3-29,<sup>58</sup> enclosure to Shanghai's mail despatch 6230, November 2, 1929.<sup>59</sup> So far as lies within its province, the Department desires to express its approval of the policy outlined in that General Order and of the specifications therein contained with regard to the use of naval forces.

COTTON

<sup>56</sup> *Foreign Relations*, 1929, vol. II, pp. 501, 500, 503.

<sup>57</sup> Not printed; it dealt with exchange of information with the Commander in Chief of the Asiatic Fleet.

<sup>58</sup> *Foreign Relations*, 1929, vol. II, p. 475.

<sup>59</sup> Not printed.



393.11/1061: Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 29, 1930—noon.  
[Received January 30—6:45 a. m.]

89. My January 25, 3 p. m.

1. Following from American Consul General at Hankow:

"January 27, 3 p. m. The substance of your January 25, 3 p. m., has been telegraphed to Bishop O'Shea at Kanchow with my full concurrence in recommendation made."

2. Following from Ministry of Foreign Affairs:

"The Ministry of Foreign Affairs begs to acknowledge the receipt of Mr. Hewes' telegram dated 25th and to inform him that Kiating [*Kiangsi?*] provincial authorities have been telegraphically requested to afford necessary protection to Americans in Kanchow."

For the Chargé:  
HEWES

393.1163/386: Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 29, 1930—1 p. m.  
[Received January 30—4:45 a. m.]

92. Your 30, January 24, 5 p. m. Following from American Consul General at Hankow:

"January 28, 1 p. m. While [*Whether?*] there are American mission workers residing at Batang am not aware at present and I have had no recent reports indicating any abnormal state of affairs for that region. It is the policy of this office to advise against American citizens proceeding to such remote points from which they cannot be quickly and safely evacuated in case of danger. Travel to Chengtu in safety is possible at present but conditions along the river often change over night. Having recently declined to issue travel passes to Americans desiring to proceed to Kansu, I cannot consistently issue such passes to Americans who are proceeding to region even more remote and less accessible than Kansu, nor could I with consistency aid in obtaining Chinese visas of their American passports to travel to such remote regions."<sup>60</sup>

For the Chargé d'Affaires ad interim:  
HEWES

<sup>60</sup> The United Christian Missionary Society, Indianapolis, was informed by the Department on February 11, 1930, that "Under these circumstances, the Department advises that the two ladies mentioned in your letter of January 22 abandon, for the time being, the idea of proceeding beyond Chengtu."

893.00/10725 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 31, 1930—7 p. m.  
[Received January 31—9:15 a. m.]

100. Department's mail instruction 1420, December 9, 1929.<sup>61</sup> Following from American Consul General at Hankow:

"January 29, 12 a. m. [noon] Yangtze Rapid<sup>62</sup> Steamer *Ifung* arrived here yesterday having on board in uniform about 40 officers and men of the Chinese National Army, all of whom boarded the vessel at Shasi and arranged with the comprador for passage to Hankow. Captain states that he had no knowledge of their presence on board until after ship sailed. Transport of Chinese soldiers either armed or unarmed on American vessels would seem to be distinctly improper. Repeated to Shanghai for information of Minister Johnson."

For the Chargé d'Affaires ad interim:  
HEWES

393.11/1048 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, February 5, 1930—6 p. m.

47. Your 1147, December 14, 4 p. m.,<sup>63</sup> Department's 39, January 29, 11 a. m., and intervening communications.

In regard to the use of the armed forces of the United States for purposes of protection at Shanghai, the Department submits, in recapitulation of instructions which have preceded, its conception of principles which should be given consideration by the Legation, the Consulate General and other agencies of the United States which are or may be concerned.

1. In general, it is believed that all officers in the service of the American Government understand that when the American Government sends or maintains abroad armed forces in times of peace the intention is that the activities of those forces be limited to the fulfillment of peaceful missions and are not to extend to acts of force or combat except under circumstances in which their proper mission can be carried out by no other means. Hackneyed as the instruction may be it needs always to be borne in mind that the first act of violence often

<sup>61</sup> *Foreign Relations, 1929*, vol. II, p. 495.

<sup>62</sup> The Yangtze Rapid Steamship Co., an American concern.

<sup>63</sup> *Foreign Relations, 1929*, vol. II, p. 498.

precipitates conflict and the commencement of violence is to be avoided by our armed forces up to the last moment of safety.

In China the American Government maintains armed forces for the protection of the persons and the property of American nationals. Where local agencies of law and order prove inadequate for the performance of the tasks which are properly theirs, and at points where it is deemed practicable, under such circumstances, to afford to the persons, and, in connection therewith, to the property of American nationals, the protection of American armed forces, the employment of those forces is warranted. In their use, the primary objective should be that of protecting the persons of American nationals. It is the desire of the American Government that armed conflict with the Chinese, whether in organized forces or in unorganized groups, be avoided as far as possible and that the disposal of American armed forces be such as to give the minimum of provocation and no reasonable basis for political agitation on the part of the Chinese.

2. In reference particularly to problems presented at Shanghai, there may exist or develop situations in which protection of American lives and property may only be effected or may best be effected by appropriate cooperation with armed forces of other countries. Such situations may exist or develop on the Whangpu and may there call for appropriate cooperation with the armed forces of other countries with the objective of keeping that stream open from Shanghai to the sea. It is believed that the naval forces of the various Powers there represented, acting in the spirit of friendly cooperation, should be able to effect this objective and to protect foreign shipping on that highway without actual conflict with Chinese forces.

3. In reference especially to the International Settlement, the Department feels that:

(1) The responsibility for the maintenance of law and order in the International Settlement rests upon the Municipal Administration; (2) if a situation arises in which the Municipal Administration is unable with the means at its disposal to maintain law and order, the situation becomes one of rightful concern to any or all Powers whose nationals or the property of whose nationals are menaced; (3) in such a situation, the armed forces of the United States, as of any or all of the Powers concerned, may rightfully go to the aid of the Municipal Administration; (4) in so doing as a matter of voluntary participation in cooperative measures for the maintenance of the peace and order of the Settlement, the responsible officers and forces of the United States will as a matter of course take such steps, in conformity with the general policy of the American Government as heretofore and now stated, as they consider necessary for the protection of the persons and property of American nationals; (5) all American nationals are entitled without distinction to the benefits of general pro-

protective measures taken by the Municipal Administration or such forces as come to its assistance in so far as protection may be practicable; (6) when the Municipal Administration believes that the general interests of the community are specially menaced in a particular case in a manner and to an extent with which the Municipal Administration cannot cope, it would seem logical that the facts be made known by that Administration to the Senior Consul and that the latter take up the problem as a matter of joint concern with the senior officers of the foreign armed forces present; (7) the distribution to be made of armed forces available, in reference to the problem of protection thus presented, should be decided upon by the officers concerned in the exercise of administrative discretion with full recognition of the fact that factors both of the general or community interest and of the separate interests of the various nations must be given consideration; (8) at any time, in the event of failure on the part of the Municipal Administration or of any other authority which may have the direction of measures for the maintenance of order to give due protection to American nationals or American property, the armed forces of the United States may rightfully, on the responsibility of their own Government, through the proper officers, and without request or authorization by any other government or administration, address themselves to the particular problem of protecting American nationals and American property, while at the same time rendering or continuing to render such assistance as may be practicable in connection with any general plan which may have been adopted for the maintenance of law and order; (9) in case the Settlement should become endangered by the proximity or approach of Chinese armed forces or a threat of use of force by the Chinese Government, the matter should at once be reported, in so far as the United States is concerned, by the Consul General to the Legation and the Department, whereupon the views of the American Government with regard to the use of American armed forces will be expressed in the light of the situation then prevailing and reported upon; (10) the nature of the action to be taken in particular situations must be decided upon with due knowledge of the factors when and as emergencies develop, and plans which may be made in advance should involve as complete allocation as possible of administrative responsibility and channels of official communication but should not be rigid with regard to the employment and distribution of the armed forces which may be involved.

4. The Department's views should be made known to the Consul General at Shanghai and to the Commander-in-Chief and should be regarded as a statement of principles for guidance rather than as a mandatory instruction.

893.00/10732: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, February 12, 1930—5 p. m.  
[Received February 12—6:20 a. m.]

124. Following from American Consul at Hankow:

"February 11, 3 p. m. In the course of the last week three American vessels, namely, Standard Oil Company lighter No. 2 and *Mei Ming* and Yangtze Rapid lighter No. 2 have been fired upon, with no casualties, by bandits at and near Temple Hill, 253 miles above Hankow. I have lodged a protest with the appropriate military authorities and requested that steps be immediately taken to suppress the activities of the bandits in the region named."

JOHNSON

393.1163/887

*The Acting Secretary of State to Mrs. Lucius O. Lee, Secretary,  
American Board of Commissioners for Foreign Missions, Boston*

WASHINGTON, February 12, 1930.

MADAM: The Department has received a letter dated January 25, 1930, signed by yourself and Mr. Wynn C. Fairfield,<sup>64</sup> in regard to claims for losses in China sustained by the American Board of Commissioners for Foreign Missions.

The Department will expect to be guided by the request contained in your letter that no action be taken toward presenting any claims against China on behalf of the Board without previous consultation with the Board. In this relation, however, it may be added that the Department reserves the right, without consulting the Board, to enter protests against the death or injury of American citizens as well as the destruction of their property at the hands of Chinese, and to include in such protests a reservation of the right to file claims for damages. Your Board will undoubtedly appreciate that these are substantive rights which the Government of the United States can not relinquish in view of the possibility that it may be necessary for it to protect the interests of Americans generally in China at some time by a demand for punitive or exemplary damages.

The Department has transmitted appropriate instructions in the premises to the American Legation at Peiping.<sup>65</sup>

Very truly yours,

For the Acting Secretary of State:

STANLEY K. HORNBECK

*Chief, Division of Far Eastern Affairs*

<sup>64</sup> Not printed.

<sup>65</sup> See No. 11, February 17, 1930, *infra*.

393.1163/387

*The Acting Secretary of State to the Minister in China (Johnson)*

No. 11

WASHINGTON, February 17, 1930.

SIR: The Department refers to its instruction No. 722, dated December 30, 1927,<sup>66</sup> enclosing copies of correspondence between the Department and the Board of Foreign Missions of the Methodist Episcopal Church, New York City,<sup>67</sup> in regard to claims for losses sustained by the Board in China.

In this connection there is transmitted herewith a copy of a letter, dated January 25, 1930, from the Secretaries of the American Board of Commissioners for Foreign Missions, of Boston, Massachusetts,<sup>68</sup> with regard to the same subject, together with a copy of the Department's reply thereto.<sup>69</sup>

Any specific claims which may be brought to the attention of the American diplomatic or consular officers in China on behalf of the American Board of Commissioners for Foreign Missions should be transmitted to the Department for approval and for instructions with regard to the prosecution of the claim.

I am [etc.]

For the Acting Secretary of State:

FRANCIS WHITE

893.00/10780

*The Consul General at Hankow (Lockhart) to the Minister in China (Johnson)*<sup>69</sup>

L. No. 916

HANKOW, February 17, 1930.

SIR: I have the honor to refer to my telegram of January 29, 12 noon,<sup>70</sup> reporting that the S. S. *Ifung* of the Yangtze Rapid Steamship Company was boarded by about forty officers and men of the Chinese National Army at Shasi, and to enclose herewith, as of possible interest, a copy of a letter addressed by Mr. Lansing Hoyt, President of the Yangtze Rapid Steamship Company, under date of February 5, 1930, to Rear Admiral T. T. Craven, United States Navy, on the subject. Mr. Hoyt's letter explains itself.

In view of the attacks by rifle fire on American vessels plying the Yangtze River between Hankow and Ichang, armed guards are now

<sup>66</sup> Not printed.<sup>67</sup> For the Department's reply of December 30, 1927, see *Foreign Relations*, 1927, vol. II, p. 145.<sup>68</sup> See letter of February 12, 1930, *supra*.<sup>69</sup> Copy transmitted to the Department by the Consul General at Hankow in his despatch No. 1333, February 17, 1930; received March 28.<sup>70</sup> See telegram No. 100, January 31, 7 p. m., from the Chargé in China, p. 85.

being supplied by the American naval authorities for American ships traversing the stretch of the river between the two points named. I am informed that this measure, which is designed to prevent further attacks on American vessels in the middle river, and to discourage, if not actually to prevent, the transportation of Chinese soldiers in uniform on American vessels, is temporary and will be withdrawn as soon as conditions warrant such action.

I have [etc.]

F. P. LOCKHART

[Enclosure]

*The President of the Yangtze Rapid Steamship Company (Hoyt) to the Commander of the United States Yangtze Patrol (Rear Admiral Craven)*

FEBRUARY 5, 1930.

CHINESE NATIONALIST GENERAL & STAFF ABOARD "IFUNG"

DEAR SIR: Your report on the above subject is substantially correct. These unarmed soldiers in uniform did travel on our M/V *Ifung* from Ichang and Shasi to Hankow. We did not seek their patronage of our Line, nor have we ever done so . . .

In my opinion our Captain acted very tactfully in this matter. This General was wearing the uniform of a friendly recognized Power. He had been no doubt treated with respect by your Naval officers when on shore at Ichang. Because this Chinese General came aboard an American vessel without arms and travelled in a peaceful manner aboard our vessel, you can hardly expect an American merchant captain to treat him with less courtesy than would an American Naval officer have treated him at his Yamen in Ichang.

The policy you refer to about carrying military forces of China was doubtless promulgated when the Yangtsze River was the scene of many inter Provincial battles between unrecognized Tuchuns. I believe it should apply in cases where Chinese troops commandeer a vessel and bring disgrace on the American flag. That is why I have always been so insistent on "Armed Naval Guards" for American ships. The *Ifung* has never enjoyed the protection of an Armed Guard. On August 29 last, Captain Bakeman of the *Ifung* asked for instructions from Lt. Commander Truesdell at Ichang about the presence of uniformed but unarmed Chinese soldiers aboard. This Naval officer replied that "There are no instructions concerning the carrying of unarmed soldiers".

We can not put high Nationalist unarmed officers off our ships. It would be folly to do this now that we have recognized their Government. There are no Chinese ships on the Middle River now, and Nationalist soldiers receive consideration if they travel on British and Japanese steamers in a peaceful manner.

Awaiting your further comments upon a policy that if strictly enforced, would only stir up useless friction and make it harder for you to protect American shipping out here.

Yours faithfully,

LANSING HOYT, *President*

893.801 Search/7 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 2, 1930—11 a. m.

[Received March 2—7:35 a. m.]

165. Following from Post [*Consul General?*] at Hankow:

"February 27, noon. Standard Oil Company vessels proceeding from Changsha to Chenglingki and points [north] are held up and searched by armed soldiers at Chenglingki to enforce regulations forbidding the exportation of rice from Hunan. No previous notice communicated to this office of proposal to search and a few days ago I addressed a letter to General Ho Chien at Changsha inquiring as to the character of the regulations and the method of enforcement. I have had no reply thus far. In the meantime warning shots are being fired across the bow of Standard Oil Company vessels approaching Chenglingki from the south causing them to stop and submit to search. Hunan authorities have issued orders exempting the vessels from search but military authorities at Chenglingki do not recognize such exemption.

Please advise whether you wish me to protest these regulations, or to take steps through naval authorities to prevent either armed or unarmed soldiers from boarding the vessels for the purpose of conducting searches."

"March 1, noon. U.S.S. *Oahu* left yesterday for Chenglingki under orders of Admiral Craven to investigate matter referred to in my February 27, noon, and to stop interference with American vessels."

For the Minister:

PERKINS

893.801 Search/8 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 3, 1930—1 p. m.

[Received March 3—10 a. m.<sup>71</sup>]

166. Legation's 165, March 2, 11 a. m.

1. Legation is sending the following reply to the American Consul General at Hankow:

"March 3, 1 p. m. Legation's March 2, 11 a. m.

(1) British treaty 1902, article 14,<sup>72</sup> provides for an embargo being placed on the export of rice. Irrespective of the question whether

<sup>71</sup> Telegram in two sections.

<sup>72</sup> Signed at Shanghai, September 5, 1902; *British and Foreign State Papers*, vol. xcv, p. 39.



the present embargo has been laid in accordance with treaty provisions, the Legation perceives no objection [*object?*] in protesting against the regulations since neither American, Chinese nor shipping firms are, so far as is known, interested in the export of rice and since the Hunan provincial authorities have in any event issued orders that the Standard Oil vessels be exempted from search.

(2) The present difficulty would appear to be the result of a lack of coordination among the Chinese authorities concerned. The Legation believes therefore that you should continue to press the appropriate civil authorities with either [*sic*] order for exemption from search being made effective."

2. In the last six months the Legation has protested on several occasions but without avail to the Minister for Foreign Affairs against the search of American merchantmen on the Lower Yangtze. (See Legation's mail despatch number 2331, September 18th, 1929.<sup>73</sup>) The Legation believes the present an appropriate occasion to renew representations to Nanking on this subject.

For the Minister:  
PERKINS

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893.801 Search/9 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 4, 1930—noon.  
[Received March 4—5:30 a. m.]

169. Legation's 166, March 3, 1 p. m. Following from Hankow:

"March 3, 3 p. m. My February 27, noon. General Ho Chien has now replied stating that the search is for the purpose of suppressing movements of Communists. This statement does not harmonize with statements made by the soldiers themselves who assert that it is for the purpose of enforcing embargo against shipment of rice out of Hunan."

For the Minister:  
PERKINS

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893.801 Search/10 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, March 4, 1930—6 p. m.

83. Your telegrams 165, March 2, 11 a. m., and 166, March 3, 1 p. m. Department believes that renewed representations to Nanking would be warranted protesting against the stopping and searching of American merchant vessels by military authorities. The Department suggests that the Chinese Ministry of Foreign Affairs be reminded that the Chinese Maritime Customs is the agency of the Chinese Govern-

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<sup>73</sup> Despatch not printed; for its enclosure No. 867 to the Chinese Minister for Foreign Affairs, see *Foreign Relations*, 1929, vol. II, p. 472.

ment authorized by treaty to search American merchant vessels. Should the Legation's representations be ineffective in this instance, the Department should be so informed.

COTTON

893.801 Search/11: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 6, 1930—1 p. m.

[Received March 6—10:35 a. m.]

\*179. Department's 83, March 4, 6 p. m.

1. Representations have been made along the lines suggested.
2. Following from Hankow:

"March 4, 3 p. m. My March 1, noon. U. S. S. *Oahu* has returned to Hankow and commanding officer states that Director of Hunan Rice Bureau assured him that no search of Standard Oil Company vessels would be made until further instructions from provincial authorities are received and that if searching is resumed at all the search party will consist of one civilian inspector and two civilian assistants, all with identifying insignia and all unarmed. The trouble is largely due to the lack of coordination between Rice Bureau and customs and if the practice is resumed at all search will probably be done in an orderly fashion. The statement of General Ho Chien, referred to in my March 3, 3 p. m.,<sup>74</sup> is completely at variance with the facts, which are that the armed search was being made for the purpose of enforcing the embargo against the shipment of rice out of Hunan."

For the Minister:

PERKINS

393.11/1079: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 12, 1930—11 a. m.

[Received March 12—9:30 a. m.<sup>75</sup>]

190. Legation's 89, January 29, noon.

1. Following telegram has been received from Hankow:

"March 11, noon. Substance of your January 25, 3 p. m., was communicated to Bishop O'Shea on January 27. Following telegram received today from Bishop O'Shea:

"Urgent. American Consul, Hankow. All Kanchow soldiers leaving for Fukien. Last regiment ordered to leave in two days. Entire Southern Kiangsi defenseless. Chu and local Reds awaiting chance to enter Kanchow. Please urge Nanking order General Chin Han-Ting leave Northern brigade here until

<sup>74</sup> See telegram No. 169, March 4, noon, from the Minister in China, p. 92.

<sup>75</sup> Telegram in two sections.

other troops replace his. Our egress blocked on arrival [*all sides?*]. Bishop O'Shea.'

I have taken no action on above request."

2. Following telegram has been sent to Minister of Foreign Affairs:

"March 12. I have the honor to refer to Your Excellency's telegram of January 27th and to state that a further telegram received from Bishop O'Shea, Kanchow, Kiangsi, reports:

'All Kanchow soldiers leaving for Fukien. Last regiment ordered to leave in two days and Reds awaiting opportunity to enter Kanchow. Egress blocked on all sides.'

Your Excellency is accordingly requested to take immediate steps in order that the Americans concerned may safely withdraw."

3. It is suggested that the Department consult the appropriate Catholic authorities in the United States looking toward having the Americans at Kanchow ordered to withdraw in view of the chronically disturbed conditions in Southern Kiangsi, the difficulties in the way of the Nanking Government's extending protection, and the manifest impropriety of the Legation's having repeatedly to urge at brief intervals that an army be sent to or maintained in Southern Kiangsi in order to protect the mission.

4. The above telegram is being repeated to Hankow.

For the Minister:

PERKINS

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893.00/10789 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 16, 1930—3 p. m.

[Received March 16—6:15 a. m.]

198. Following from American Consul General at Hankow:

"March 15, noon. Steamship *Chi Ping* of Yangtze Rapid Company with armed naval guard aboard was heavily fired on at mileage 46 to 48 above Ichang yesterday and Lieutenant C. M. Winslow, officer in charge of armed guard, slightly wounded and five Chinese wounded. *Chi Ping* was hit about 300 times by rifle bullets and three shells fired at the vessel from field pieces but no hits. Other vessels of Yangtze Rapid Company are being escorted today through the danger zone by the U. S. S. *Tutwila*. Steamship *I'Ping* also attacked same place and same day, one Chinese passenger killed. Armed guard returned fire both cases with rifle fire and machine guns, casualties observed among soldiers ashore who directed the fire against the American vessels with rifles, machine guns, and field pieces."

For the Minister:

PERKINS

393.11/1084 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 21, 1930—10 a. m.

[Received March 21—2:25 a. m.]

207. Legation's 190, March 12, 11 a. m. Following telegram has been sent to Hankow, Shanghai and Nanking:

"March 21, 10 a. m. Ministry of Foreign Affairs has requested that instructions be sent General Chin to despatch troops to suppress Communists. Kiangsi provincial government has reported that the 35th Brigade will retain one detachment at Kanchow."

JOHNSON

393.11/1079

*The Acting Secretary of State to the Reverend J. J. Burke, General Secretary of the National Catholic Welfare Conference*

[Extract]

WASHINGTON, March 21, 1930.

SIR:

In the light of the information contained in this letter and in previous letters to you regarding conditions in southern Kiangsi, the Department believes that it is unsafe for the missionaries to remain there without the protection of Chinese soldiers, and also that it would be improper for the representatives of this Government to continue to urge that an army be sent to or maintained in Kiangsi. Although it appears that the withdrawal of these missionaries cannot be undertaken at the moment, it would seem desirable that they should withdraw as soon as possible, until safe conditions are restored, and to that end it would be appreciated if the appropriate authorities in this country were to telegraph them to that effect. If you desire to discuss this matter with the Department, it is suggested that you call at your convenience at the Division of Far Eastern Affairs.

Very truly yours,

For the Acting Secretary of State:

STANLEY K. HORNBECK

*Chief, Division of Far Eastern Affairs*

393.11/1087 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 22, 1930—4 p. m.

[Received March 22—11:25 a. m.]

214. Canton's March 21, 3 p. m.<sup>77</sup> The Legation has sent the following telegram to the Minister for Foreign Affairs, Nanking:

"March 22. Referring to Your Excellency's telegram of March 19, American Consul General, Canton, has received telegram from American citizen at Nananfu reading as follows: 'Kanchow besieged by Reds; very grave danger, Americans trapped; send help quickly.' Canton authorities have telegraphically requested despatch troops by General Liu, Nananfu, from whom no reply has been received.

I have the honor to request Your Excellency will urge upon proper authorities the necessity of speedy action to protect Americans at Kanchow."

Shanghai, Canton and Hankow informed.

JOHNSON

393.11/1090 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, March 25, 1930—4 p. m.

[Received 9:28 p. m.]

Referring to my telegram of March 25, noon.<sup>77</sup> Following telegram received this afternoon from Father Young at Namyung, Kwangtung:

"Forced to flee, Reds approach. Impossible obtain news Kanchow. Young."

Copy was immediately given to local authorities who stated that while no official reply has been received from Kiangsi authorities, they did receive a telegram this noon from private, reliable sources in Nanchang, Kiangsi, saying that Kanchow is safe. Department and Legation and Hankow informed.

JENKINS

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<sup>77</sup> Not printed.

393.11/1088 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 25, 1930—6 p. m.

[Received March 25—9:35 a. m.]

219. Legation's 114 [214], March 22, 4 p. m.

1. The following telegram received from Minister for Foreign Affairs is being repeated to Canton and Shanghai:

"Your Excellency's wire of 22nd instant was forwarded to me here. Kiangsi Provincial Government inform me that strong measures are being taken to suppress the Communists. Will you instruct your nationals to remain where we station Government forces and not to go about without first informing local authorities? Trust Your Excellency will see the importance of this request."

2. Suggestion contained in third paragraph of Legation's 190, March 12, 11 a. m., is respectfully renewed.

3. Foregoing is being repeated to Hankow.

JOHNSON

893.00/10774 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 26, 1930—11 a. m.

[Received March 26—3:10 a. m.]

222. My 208, March 21, 11 a. m.<sup>78</sup> Following from American Consul General at [Hankow]:

"March 25, 11 a. m. The Steamship *Ifung* of Yangtze Rapid Steamship Company was fired on at mileage 219 above Hankow from the right bank by about 400 soldiers carrying a red flag with white sun. The soldiers fired about 700 shots from rifles. An armed naval guard on the *Ifung* [returned?] the fire with 272 rounds. One enlisted man slightly wounded in left forearm by ricochet fragment. Heavy firing was heard inland at mileage 220 above Hankow.

There is no unusual military activity in evidence here at present, and, so far as can be learned, local authorities are depending on Government forces now in north and northwest Hupeh and along the Pinghan Railway in Honan to defend Hankow if the threatened war materializes."

JOHNSON

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<sup>78</sup> Not printed.

393.11/1088 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, March 26, 1930—1 p. m.

108. Your 219, March 25, 6 p. m.

1. Suggestion in Legation's 190, March 12, 11 a. m., paragraph 3, was communicated to Catholic authorities, and you are confidentially informed that the latter state they are taking measures toward complying with the suggestion.

COTTON

393.11/1091 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, March 26, 1930—4 p. m.

[Received March 26—3:34 p. m.]

Referring to my telegram of March 25, 4 p. m. Local government has informed me of receipt of telegram from Governor of Kiangsi stating troops despatched to Kanchow and that latter city considered safe. Department, Legation and Hankow informed.

JENKINS

393.1111 Gemmell, Nina E./3 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 31, 1930—4 p. m.

[Received March 31—11:20 a. m.]

239. Hankow's March 30, 8 p. m., and Shanghai's March 30, 11 a. m.<sup>79</sup> Following telegram sent the Minister for Foreign Affairs today is being repeated to Hankow and Shanghai:

"March 31. I have the honor to state that Miss N[ina] Earl [Eleanor] Gemmell, American, is reported captured by Communists at Yuanchow, Kiangsi, and that other members of the mission are reported confined in Yuanchow which has been taken by Communists. It is requested that Your Excellency will be good enough to devise immediate liaison for the release of the Americans concerned."

JOHNSON

<sup>79</sup> Neither printed.

393.1111 Gemmell, Nina E./6 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, April 2, 1930—4 p. m.  
[Received April 2—10:35 a. m.]

17. My 16, March 31, 4 p. m.<sup>80</sup> The following to the Legation:

"April 2, 3 p. m. My January [*March*] 31, 1 [3] p. m. China Inland Mission here received the following telegram today from Changsha throwing further light on bandit raid on Yuanchow:

'Miss Gemmell, Mr. and Mrs. Porteous abducted by brigands and held for ransom \$20,000 each. Miss Rugg and Mr. and Mrs. Glazier<sup>81</sup> are hiding in the district.'

Repeated to Department and Nanking."

LOCKHART

393.1111 Gemmell, Nina E./12 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, April 5, 1930—noon.  
[Received April 5—9:15 a. m.]

The following telegram has been sent to the Legation:

"April 5, 10 a. m. Continuing this office's telegram of March 30, 11 a. m.<sup>80</sup> The secretary of the China Inland Mission received last night a telegram dated Pingsiang April 2nd stating that the Communists demand for the release of the Porteous party [\$]60,000 as ransom. The telegram was forwarded by Glazier who requested the mission to wire immediately in Chinese characters accepted or declined. The secretary stated that it would be inviting trouble to pay this or any other amount. Repeated to Department, Hankow and Nanking."

CUNNINGHAM

393.11/1097 : Telegram

*The Consul at Nanking (Adams) to the Secretary of State*

NANKING, April 5, 1930—2 p. m.  
[Received April 5—9 a. m.]

14. The following telegram has been sent to the Legation:

"April 5, 1 p. m. The Ministry of Foreign Affairs have just received telegram from the Kiangsi Provincial Government saying that Yuan-chow has been recaptured by Government forces and that delegates

<sup>80</sup> Not printed.

<sup>81</sup> Latter two Americans.



have been despatched to Yuanchow to take strenuous action to obtain the release of the American and British missionaries who are held by bandits. Hankow informed."

ADAMS

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393.1111 Gemmell, Nina E./27 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, April 7, 1930—10 a. m.

[Received 8:18 p. m.]

23. My 22 April 5, 1 p. m.<sup>84</sup> Telegram received this morning from Changsha by China Inland Mission states that Miss Gemmell has been released.<sup>85</sup>

Legation, Nanking and Shanghai informed.

LOCKHART

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893.00/10797 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, April 8, 1930—noon.

[Received April 9—1 a. m.]

Referring to my telegram of April 5, noon.<sup>84</sup> According to unofficial but reliable reports, Communist bandit forces have now occupied Yanfa in Northern Kwangtung and are proceeding to Chihing. The local authorities have sent some troops into this area but they are mostly raw recruits and may not be able to cope with the situation. The Consulate General is warning Americans at Shiuchow and Linchow of possible danger.

Cantonese airplanes have recently bombed Nanning, Kweih sien and other cities occupied by Kwangsi forces, but Americans stationed in these places have apparently escaped injury. Department and Legation informed.

JENKINS

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<sup>84</sup> Not printed.

<sup>85</sup> She was held from March 23 to April 4. In despatch No. 948, April 12, 1930, the Consul General at Hankow reported to the Legation "that \$1,100 in cash was paid to the bandits and that it is believed this payment brought about the release of Miss Gemmell." (393.1111 Gemmell, Nina E./36)

393.11/1099 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, April 11, 1930—11 a. m.  
[Received April 11—9:50 a. m.<sup>86</sup>]

259. Legation's 190, March 12, 11 a. m., and 239, March 31, 4 p. m.

1. The following comments are taken from a report dated April 7th entitled "Banditry and Communist Disorders" by Major Magruder of the office of the Military Attaché:

" . . . <sup>87</sup> Generally disorderly conditions are now so prevalent that special attention should be called to a condition which is a present menace to foreign lives in the interior and which may become a fertile field for Communist agitation on a dangerous scale. Due to the opposition of the Northern coalition to the Government, the most dependable troops have been withdrawn from their normal garrison areas into the concentration effected for the immediate defense of the capital. Even before this emergency, the Government was unable to maintain order over large areas under its nominal control.

So long as the present Government exerts authority in a given area it may be expected that organized communism can reassert itself only with the greatest difficulty. Wherever the Government authority has lapsed south of the Yangtze River the communist seeds, planted under the aegis of the Kuomintang itself, have sprouted vigorously. The danger then is that governmental authority which undeniably has shrunk in the past year may continue to diminish or that it may actually crumble under the ceaseless attacks of the opposition."

2. In view of the potential dangers in the situation thus described which appear to me definitely to threaten the security of American residents throughout large areas in Central and Southern China, I respectfully suggest that the Department, in addition to informing the Catholic authorities whose missionaries are stationed in Kiangsi, make the existing conditions generally known to the interested mission boards with a view to having American citizens in the affected areas withdrawn from exposed points until more suitable conditions are restored. At a time when the Central Government is fighting for its existence and must of necessity concentrate its forces, the Legation believes it unreasonable to make demands upon the Government that troops be maintained to protect scattered groups of Americans resident at remote points in the interior of the country.

JOHNSON

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<sup>86</sup> Telegram in three sections.

<sup>87</sup> Omission indicated in original.

393.11/1099 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, April 16, 1930—5 p. m.

132. Your 259, April 11, 11 a. m. Department is communicating with interested mission boards through National Catholic Welfare Conference and International Missionary Council urging that missions which have representatives in areas where there seems to be especial danger seriously consider advisability of withdrawing such representatives from exposed positions until conditions of safe residence are restored.

COTTON

195.95/84

*The Consul General at Hankow (Lockhart) to the Minister in China (Johnson)*<sup>88</sup>

L. No. 952

HANKOW, April 19, 1930.

SIR: I have the honor to acknowledge the receipt of the Legation's instruction of March 27, 1930, enclosing a copy of the Department's instruction No. 17 of March 1, 1930, addressed to the Legation,<sup>89</sup> requesting reports as to the naval protection, including the use of armed guards, afforded to American merchant vessels in Chinese waters.

In connection with this subject, I beg to state that several cases coming within the scope of the above mentioned instruction have recently been brought to the attention of the Legation by this Consulate General by telegraph and by mail despatch. Following the attack on the American vessels referred to in my telegram of February 11, 3 p. m.,<sup>90</sup> and in my despatch No. 915 of February 17, 1930,<sup>91</sup> Rear Admiral Craven, Commander of the Yangtze Patrol, United States Navy, directed that armed guards should be placed on American steamers plying the river between Hankow and Ichang. These guards were to be supplied by the U.S.S. *Panay* and the U.S.S. *Oahu*, and since that time these and other American naval vessels have supplied guards, when available, and are still so doing, for American vessels on the river between the two above-named points and also between Ichang and Chungking. Specific instances of protection afforded by these guards in cases in which the vessels on which they were doing duty have been attacked were reported in my telegrams of March 15,

<sup>88</sup> Copy transmitted to the Department by the Consul General in his despatch No. 1380, April 19, 1930; received May 22.

<sup>89</sup> Neither printed.

<sup>90</sup> See telegram No. 124, February 12, 5 p. m., from the Minister in China, p. 88.

<sup>91</sup> Not printed.

12 noon, and March 25, 11 a. m.<sup>92</sup> Such protection has been afforded principally to the vessels of the Yangtze Rapid Steamship Company, although guards have also been provided in at least one instance, if not more, to vessels of the Standard Oil Company of New York. The vessels of both these companies endeavor, as far as possible, to sail at approximately the same time so that guards on one or the other of the vessels may afford protection to more than one vessel on the same voyage. This, I believe, is particularly true on the river between Ichang and Chungking, although recently no Standard Oil vessels have been plying the river above Ichang due to the pilots' strike. The most serious attack on American merchant vessels from ashore was that reported in my telegram of March 15, 12 noon. It will be recalled that the engagement between the forces ashore, who fired at close range, and the armed naval guard on the S.S. *Chi Ping* of the Yangtze Rapid Steamship Company resulted in a number of casualties among the Chinese soldiers and the wounding of Lieutenant C. M. Winslow, officer in charge of the naval guard.

I have [etc.]

F. P. LOCKHART

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393.11/1104 : Telegram

*The Acting Secretary of State to the Consul General at Shanghai  
(Cunningham)*

WASHINGTON, April 22, 1930—6 p. m.

141. For the Minister. Canton telegram April 22, 4 p. m., to Legation, Hankow and Department<sup>93</sup> reports 2 American priests have just arrived in Canton from southern Kiangsi and state that 25 foreigners including 19 Americans, many of them women and children, are still in Kanchow and unable to get out; that Communist forces are again converging on Kanchow and threaten to kill all foreigners. Jenkins reports that he is urging Cantonese authorities to send troops to relief of Kanchow but fears authorities will do little or nothing. He suggests Chiang Kai-shek be urged to order governors Kiangsi and Kwangtung to cooperate in relief work.

Department is gravely anxious with regard to this situation and believes it warrants your making immediate and urgent representations to the Nanking authorities asking them to take every possible measure for the protection and rescue of this group of foreigners, the majority of whom are Americans.

COTTON

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<sup>92</sup> See telegrams No. 198, March 16, 3 p. m., and No. 222, March 26, 11 a. m., from the Minister in China, pp. 94 and 97.

<sup>93</sup> Not printed.

393.11/1106 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, April 23, 1930—4 p. m.  
[Received April 23—10:20 a. m.]

25. The following telegram has been sent to the Legation :

"April 23, 3 p. m. Canton's April 22, 4 p. m.,<sup>94</sup> concerning safety of Bishop O'Shea and other Americans at Kanchow. I have requested General Ho Ying-chin to take up with Chiang Kai-shek on his arrival here tomorrow the matter of rendering adequate protection to the American citizens and other foreigners who may be awaiting further instructions at Kanchow.

Jenkins' telegram is not clear as to whether the situation reported by the two priests is a recent development or the condition that prevailed about four weeks ago. Inasmuch as the priests travelled overland, much of the way on foot, from Kanchow to Canton, it is entirely possible that the situation describable [*described?*] is that which was previously reported by this office as well as by Canton. Please see my despatch 949 of April 18th. Repeated to Department and Canton."

LOCKHART

393.11/1107 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, April 24, 1930—noon.  
[Received April 24—7:22 a. m.]

Your telegram of April 22, 4 p. m., and my reply of April 23, 9 p. m.,<sup>95</sup> concerning situation at Kanchow.

Father Moehringer says they actually received two letters from Kanchow dated April 6, one from Bishop O'Shea and the other from Father Cahill. Both said the outcome at Kanchow was very uncertain and that there was no hope except in God.

Father Moehringer says that while at Lungnan, Kiangsi, on April 13, he received reliable information from various sources to show that all the larger cities south of Kanchow in Kiangsi were in the hands of so-called Communists and that Communists were headed for Kanchow by two routes. Communist forces are estimated at 7,000 men scattered through area mentioned, with many armed bandits and disorganized troops in addition.

70th Regiment under General Chin Han-ting is understood still to be at Kanchow but has not been paid for five months and probably would not be strong enough to protect city if unassisted, and may refuse to fight. Father Moehringer says 71st Regiment has mutinied and disappeared and he feels positive telegraph wires out of Kanchow

<sup>94</sup> Not printed.

<sup>95</sup> Neither printed.

have been destroyed and all means of communication with outside controlled by Communists and bandits. He is also positive that approximately 25 foreigners, including 8 American Sisters, 4 of whom arrived from country districts, are still at Kanchow.

Cantonese authorities have promised to consider plans for sending relief expedition into Kiangsi provided Kiangsi Government forces will cooperate. It is for this reason that I have suggested that the Legation urge upon Nanking the importance of instructing the authorities in Kwangtung and Kiangsi to cooperate in bringing relief to foreigners in Southern Kiangsi.

If Department has information tending to show that foreigners have evacuated Kanchow subsequent to April 6th or are now safe, I trust I may be informed immediately in order to avoid unnecessary anxiety. Department, Legation and Hankow informed.

JENKINS

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393.11/1108 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, April 24, 1930—3 p. m.  
[Received April 24—11:15 a. m.]

285. Canton's April 22, 4 p. m.<sup>96</sup> Following has been sent to the Minister for Foreign Affairs:

"The American Consul General at Canton reports that American missionaries, who have just reached Canton from Southern Kiangsi, state that at least 19 American missionaries are still in Kanchow unable to leave and that the Communist forces are again converging on Kanchow where the Americans are in grave danger.

It would be much appreciated if Your Excellency would be so good as to make available to me any reliable information which may have been received concerning present conditions at Kanchow."

Hankow and Canton informed.

For the Minister:  
PERKINS

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393.11/1107 : Telegram

*The Acting Secretary of State to the Consul General at Canton  
(Jenkins)*

WASHINGTON, April 25, 1930—11 a. m.

Your April 24, noon, last paragraph. Neither Department nor Catholic authorities have information of later date.

COTTON

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<sup>96</sup> Not printed.

393.11/1109 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, April 25, 1930—noon.  
[Received April 25—5:40 a. m.]

289. Legation's 285, April 24, 3 p. m. Legation is telegraphing the Minister for Foreign Affairs the substance of Canton's April 24, noon,<sup>97</sup> and is urging upon him the importance of instructing the authorities in Kwangtung and Kiangsi to cooperate in bringing relief to foreigners in southern Kiangsi.

For the Minister:  
PERKINS

393.11/1110 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, April 25, 1930—noon.  
[Received April 25—5:40 a. m.]

26. My 25, April 23, 4 p. m. The following telegram has been sent to the Legation.

"April 25, 11 a. m. My April 23, 3 p. m. I received this morning a personal note from General Ho Ying-chin of which the following is the substance: The communist brigands will be promptly exterminated; at present Kanchow is very safe and quiet and no danger will arise; General Chin Han-ting has been telegraphed to render protection to American life and property; hope is expressed that I will entertain no anxiety for Kanchow.

While I have no means of knowing the basis of General Ho's optimism, he is generally well informed.

Repeated to Canton and the Department."

LOCKHART

393.11/1112 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, April 25, 1930—5 p. m.  
[Received April 25—4:05 p. m.<sup>98</sup>]

291. Legation's 289, April 25, noon, and Department's mail instruction No. 54, March 25, 4th paragraph of enclosure dated March 21st.<sup>99</sup>

<sup>97</sup> See telegram of even date from the Consul General at Canton to the Secretary of State, p. 104.

<sup>98</sup> Telegram in three sections.

<sup>99</sup> Instruction not printed: it refers to the Department's press release of March 21 regarding Kanchow. The fourth paragraph reads: "In view of the

1. In mail despatch of April 10 American Consul General, Hankow, encloses letter to him from Bishop O'Shea at Kanchow, dated March 28th, with the comment, "in spite of the fact that he is apparently of the considered opinion that there is very little hope for peace in Kiangsi Province under existing conditions, Bishop O'Shea does not mention leaving that area or issuing instructions to his subordinates to evacuate to places of greater safety." From the correspondence it is not wholly clear to the Legation whether the Americans at Kanchow would have been able to withdraw within the last few weeks since the Bishop states, "the country side is still too unsafe for travel." There is, however, no indication that Bishop O'Shea has, since the original warning given him in January by the American Consul General at Hankow, manifested any intention of withdrawing or that he has at any time applied to the Chinese authorities for a military escort to enable him to effect the withdrawal of the Americans under his charge.

2. As having a possible bearing upon the attitude of the American missionaries at Kanchow the following excerpt is quoted from a memorandum of a conversation at Peking on April 10 between Minister Johnson and Archbishop Constantini, the Apostolic Delegate in China :

"I said that it was impossible for the American Government to afford protection for Americans living in the interior of China under these conditions and that for many years it will be impossible for any Chinese Government to afford protection in isolated places particularly in times like the present when the government itself is under attack. I said that I felt that all American citizens should remember this in establishing themselves in interior of China and govern themselves accordingly.

The delegate stated that he well understood the matter; that of course my responsibilities were the responsibilities of the agent of the state and that my thoughts must be the thoughts of the state while his views were the views of the Holy See. He said that their belief was that their missionaries were like soldiers in the trenches. They must of course not take any unnecessary risk but on the other hand if it were necessary for them to die they were prepared to die. He said that he quite understood the difficulties that any foreign government would be under at any time in furnishing protection at all places."

For the Minister :

PERKINS

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serious situation which appeared to be developing at Kanchow, the American Legation on January 25 requested the American Consul General at Hankow to advise Bishop O'Shea and the other Americans at Kanchow to evacuate as soon as they could safely do so. The American Consul General at Hankow informed the Legation that he fully concurred in this recommendation and that he telegraphed this advice to Bishop O'Shea on January 27." (393.11/1091a)



393.11/1114: Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, April 28, 1930—3 p. m.

[Received April 28—9:40 a. m.]

Referring to Lockhart's April 25, 11 a. m.<sup>1</sup> Cantonese authorities also assure me that there are sufficient troops in Kanchow to protect foreigners, but admit that no direct news has been received from that place regarding present conditions. I do not for a moment wish to appear to intrude in my colleague's district, but would like to suggest that Lockhart, if he has not already done so, ask General Ho Ying-chin specifically what means he has for communicating with Kanchow and if it is possible to send a message to Bishop O'Shea through Chinese sources. I cannot escape the feeling that the situation in Kanchow is or will soon be very dangerous and that the Chinese authorities do not know what is developing there.

To Legation, Department and Hankow informed.

JENKINS

393.11/1115: Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, April 30, 1930—2 p.m.

[Received April 30—1:50 p.m.]

28. The following telegram has been sent to the Legation:

"April 30, 1 p. m. Chiang Kai-shek, Ho Chien, Lu Ti-ping and Ho Chen-chun, at a conference here during Chiang's visit, agreed on a general plan to suppress the several roving bands of Communist armies now operating in Kiangsi, Hunan and Hupeh. General Ho Ying-chin who is in charge of Chiang Kai-shek's headquarters here and concurrently Minister of War confirmed this yesterday in a conversation which I had with him. The plan contemplates the employment of one brigade of soldiers each from Kiangsi, Hunan and Hupeh solely for this work. I do not place much faith in the plan.

In talking with General Ho Ying-chin regarding situation at Kanchow, Kiangsi, he stated that the Communist army that besieged that place early in the month has been driven out into Fukien and that conditions are quiet at present at Kanchow and that he is able [to] communicate by land, wire and wireless apparatus with Kanchow, whereupon I asked him to ascertain information concerning the welfare of Bishop O'Shea. I quite agree with Jenkins that Chinese officials often are not aware of actual conditions and I am reporting Ho Ying-chin's assurances only for what they may be worth. To my own certain knowledge there are five communist armies operating in this consular district at present.

Repeated to Canton, Nanking and Department."

LOCKHART

<sup>1</sup> See telegram No. 26, April 25, noon, from the Consul General at Hankow to the Secretary of State, p. 106.

393.11/1116 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, April 30, 1930—4 p.m.

[Received May 2—1:50 p.m.]

Cantonese authorities inform me officially that vigorous attacks including aeroplanes are to be made on Sunchow<sup>2</sup> and Kweih sien, Kwangsi Province, shortly after May 6 and asked that Americans be warned to leave. We have five American missionaries at Kweih sien to whom I am endeavoring to get word in time but communication difficult. I have given Cantonese authorities map of Kweih sien showing location of Americans and warned them that United States Government expects every effort to be made to avoid endangering American lives and property. Will report further developments.

Department and Legation informed.

JENKINS

393.11/1174

*Memorandum by the Minister in China (Johnson)*<sup>3</sup>

[NANKING,] May 1, 1930.

In a conversation with the Minister for Foreign Affairs this afternoon, I told him that my Government was extremely agitated over the safety of American citizens in the city of Kanchow in the Province of Kiangsi which had been under siege by Communists or lawless persons for sometime. I said that reports had reached us that the lives of these Americans were in danger and that the American Government had instructed me to ask that the Chinese Government do something to relieve this situation and make it possible for these people to get out of there.

The Minister for Foreign Affairs made a note of my request and said he would send a telegram to that area. He said it was the opinion of the Minister of War that the military officer in charge at Kanchow had sufficient troops to protect and hold the city. He said that no reinforcements were being sent.

393.11/1112 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, May 2, 1930—5 p. m.

152. Your 291, April 25, 5 p. m. Substance of paragraph 1 was communicated in writing to Father Burke of National Catholic Welfare

<sup>2</sup> Also known as Kweiping.

<sup>3</sup> Copy transmitted to the Department without covering despatch; received June 19, 1930.

Conference. Paragraph 2 was discussed orally with Father Burke on April 30, as was also the question of the withdrawal of missionaries, and it was explained to him that American citizens by continuing to remain in exposed positions contrary to official advice to withdraw are likely, in the Department's opinion, not only to endanger their own lives, but also the lives and interests of other American citizens, and to create complications both for the Chinese Government and people and for the American and other governments.

If you have not already elaborated and emphasized these considerations in your conversation with Archbishop Constantini, please do so when a suitable occasion occurs.

STIMSON

393.11/1117: Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, May 3, 1930—4 p. m.

[Received 8:45 p. m.]

29. The following telegram has been sent to the Legation:

"May 3, 3 p. m. Li Fong, special minister for foreign affairs, unofficially called on me this morning and stated that he had been instructed by General Ho Chen-chun, chairman of the Hupeh Provincial Government, to inform me that impending military operations against Feng Yu-hsiang prompts him to request that all foreigners resident at interior points in Hupeh and in the territory south of Yencheng, Honan, withdraw at once to Hankow where protection can be afforded them. Colonel Li stated that National troops are being concentrated in northern Hupeh and southern Honan and that many small towns and villages will in consequence be unprotected thus subjecting foreigners resident therein to danger from bandit raids and the activities of roving bands of Communist troops. Mr. Li stated that a telegram had been received by him last night from Dr. C. T. Wang directing him to make the same request of consular representatives at Hankow. Mr. Li particularly emphasized the necessity of the withdrawal of foreigners from southern Honan and northern Hupeh and he informed me, quite confidentially, that the National Government has now changed its plan from one of defensive fighting to one of offensive. To substantiate this statement he replied that large numbers of troops are now being despatched up the railway from Hankow. It is quite evident that decisive developments are expected to occur soon. For the first time in some weeks military circles are showing signs of great activity.

The request of General Ho and Dr. C. T. Wang has been communicated to my colleagues at Mr. Li's request and I shall also endeavor at once to inform American citizens at interior points of the advice above mentioned although it is quite likely that but few of them will heed it.

Repeated to Department and Nanking."

LOCKHART

CHINA

393.11/1119 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, May 6, 1930—6 p. m.

[Received 8 p. m.]

31. The following telegram has been sent to the Legation:

"May 6, 5 p. m. In reply to an inquiry made of General Ho Chen-chun in the course of a call this morning as to whether Li Fong had been authorized to communicate to me on his behalf the advice described in my May 3, 3 p. m.,<sup>4</sup> General Ho stated that he had informed Li Fong that foreigners residing in Honan in the war zone south of Yencheng should withdraw to Sinyangchow where protection will be afforded them by government troops and that foreigners residing in northwest Hupeh should withdraw to Siangyang and those in southwest Hupeh to Ichang. He stated that he did not advise withdrawal to Hankow but to the three places named and that Li Fong had not correctly stated the facts and has not been authorized to make representations on his behalf. General Ho Ying-chin, who had not been consulted by Li Fong, today advised withdrawal to Sinyangchow of Americans resident in Honan south of Yencheng. General Ho confirmed the statement that a general offensive will soon be launched and added that no Kuominchun troops are now in Hupeh.

Unless otherwise instructed, the policy of this office will be to advise American citizens to withdraw from the so-called danger zone to places of safety as herein described or to Hankow.

Repeated to Department and Nanking."

LOCKHART

893.801 Search/24

*The Minister in China (Johnson) to the Secretary of State*

No. 193

PEIPING, May 8, 1930.

[Received June 18.]

SIR: With reference to the Legation's telegram No. 179, of March 6, 1 p. m., concerning the boarding and searching of American vessels by Chinese armed forces, I have the honor to transmit herewith a copy of a note addressed on March 4, 1930, to the Minister for Foreign Affairs<sup>5</sup> protesting against the actions mentioned, together with a copy, in translation, of his reply of April 10, 1930. The Legation does not consider the reply satisfactory, but, since these searchings are believed to have been discontinued, no further communication will be addressed to the Chinese Government on the matter unless the Department so instructs.

There is further enclosed a copy of an instruction addressed to-day to the American Consul General at Hankow in the premises.<sup>5</sup>

I have [etc.]

For the Minister:  
MAHLON F. PERKINS

<sup>4</sup> See telegram *supra*.

<sup>5</sup> Not printed.

[Enclosure—Translation]

*The Chinese Minister for Foreign Affairs (C. T. Wang) to the  
American Minister (Johnson)*

L-56

SIR: I have the honor to acknowledge the receipt of your formal note (No. 23) of March 4th stating that, although the authorities of Hunan have issued orders exempting the vessels belonging to the Standard Oil Company of New York from search, you were informed that such vessels proceeding from Changsha to Chenglingki and points north were being held up and searched by armed soldiers, ostensibly to enforce regulations forbidding the exportation of rice. You protest this action and request me to issue immediate orders for the discontinuance of such activities.

The foregoing was referred by note by this Ministry to the Hunan Provincial Government for investigation and reply. A reply has now been received, stating:

"Sometime ago the soldiers stationed at Yochow searched American merchantmen because bandits and communists were running rampant on the opposite bank of the river and because an active suppression of bandits was at the same time being enforced at Shihshowhsien and Kienlihsien, Hupeh. It was feared that bandits and communists might have indiscriminately mingled on board the boats which were accordingly searched. Since the Provincial Government has enforced regulations forbidding the exportation of rice, the Rice-Export Prohibition Bureau and the troops stationed at Yochow, in order to be especially careful, have made repeated searches. It was found that the steam launches belonging to the Standard Oil Company of New York had more than once violated the injunction and shipped rice. Fifteen piculs of rice were the first time found to have been secretly carried by the steam launch *Mei Shan*. Later, four piculs of rice were found in the coal on board the steam launch *Mei Foo* in excess of the quantity needed for food (in addition there being more than six piculs on board for food purposes). The above are the past circumstances of this case.

"The Bureau of Finance has been ordered to instruct its officers at Changsha and Yochow that whenever they desire to board ships and make searches in carrying out the rice-export prohibition, they should be accompanied by Customs officials in order to avoid misunderstanding."

I have the honor, Mr. Minister, to make this reply for your information.

WANG CHENG-T'ING

[NANKING,] April 10, 1930.

393.11/1122 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, May 9, 1930—3 p. m.

[Received 4:11 p. m.]

Referring to my May 5 [3], 3 p. m.<sup>6</sup> Letter dated April 28 from Kweih sien indicates almost daily bombing of that city by Cantonese planes and artillery and seven Americans residing there are believed to be in considerable danger. Letter says travelling would be dangerous but mail appears to be received and sent.

Although no definite indication has come to this office that these people would evacuate, I have sent radio telegram via Hong Kong to Kwangsi commander in chief at Nanning urging verbally [*sic*] armed escort be furnished to enable Americans to leave Kweih sien for safety. I am also renewing my efforts to have Cantonese commander on West River opposite Kweih sien endeavor to have Americans cross over to Cantonese lines.

It is impossible for U. S. Ship *Mindanao* to proceed above Wuchow and my British colleague tells me water too low in upper West River even for shallow draft British gunboats. I can therefore send no direct help to Americans at Kweih sien and must rely on Cantonese and Kwangsi military authorities exclusively. Department and Legation informed.

JENKINS

893.801 Search/13 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 13, 1930—6 p. m.

[Received May 13—1:40 p. m.<sup>7</sup>]

330. Following has been received from Nanking:

"May 12, 4 p. m. The following *aide-mémoire* has just been handed me by Frank Lee, Vice Minister for Foreign Affairs:

"The National Government of the Republic of China, for the purpose of localizing the present rebellion of the Northern Militarists, has instructed Commander Shen Hung-lieh to proceed to Tsingtau and despatch Government vessels with orders to stop and search all vessels proceeding to or leaving the port of Tientsin. In the event that arms and all munitions of any kind whatever, for which no *huchao* has been issued by the competent authorities of the National Government, are found upon such vessels, all such illegally transported arms and/or munitions shall be treated as contraband and subjected

<sup>6</sup>Not printed.

<sup>7</sup>Telegram in three sections.

to confiscation while the vessel conveying the contraband will be dealt with in accordance with law. Nanking, May 12, 1930.'

Lee said that the action outlined is in no sense a blockade and that the hope of the Government is to make it effective with as little inconvenience as possible to all concerned."

I have sent the following reply:

"May 13, 5 p. m. Your May 12, 4 p. m. Subject to the Minister's approval, please hand the following to the Vice Minister for Foreign Affairs:

"The American Legation has received the Ministry of Foreign Affairs' *aide-mémoire* of May 12, 1930, and notes that the Chinese Government has instructed Admiral Shen Hung-lieh to proceed to Tsingtau and despatch Government ships to stop and search all vessels proceeding to or leaving the port of Tientsin and that, in the event that arms and munitions of any kind whatever not covered by *huchao* issued by the competent authorities of the Chinese Government are found upon such vessels, the arms and munitions are to be treated as contraband and confiscated and the vessels dealt with in accordance with law. The attention of the Chinese is invited to the fact that the only authorities of the Chinese Government authorized to board and search American vessels are the authorities of the Chinese Maritime Customs, and the Chinese Government will be held accountable for any damages or losses which may be suffered by vessels flying the American flag in consequence of any attempt to effect illegally the boarding and search outlined in *aide-mémoire* of the Ministry of Foreign Affairs of May 12, 1930.'

Commander in Chief, Tientsin, Chefoo and Tsingtau are being informed.

Repeated to the Department."

For the Minister:  
PERKINS

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393.11/1129 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 13, 1930—7 p. m.  
[Received May 13—1:35 p. m.]

331. Following has been received from Nanking:

"May 12, 6 p. m. Frank Lee, Vice Minister for Foreign Affairs, has just informed me orally that Chengchow, Honan, will shortly be subjected to an aerial bombardment and that the National Government requests all Americans to withdraw temporarily from Cheng-

chow. He said that the National Government will be responsible for damage done to American property in Chengchow. The American Minister, who is returning to Nanking tomorrow morning, is being informed. Hankow informed."

For the Minister:

PERKINS

393.11/1130 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, May 14, 1930—noon.

[Received May 14—9:05 a. m.]

Referring to my telegram of May 9, 3 p. m. I am glad to be able to report that I have just received a telegram dated May 10 through Hong Kong from General Huang Shao-hung promising an armed guard to escort the American missionaries out of Kweih sien. Department and Legation informed.

JENKINS

893.801 Search/14 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 14, 1930—1 p. m.

[Received May 14—9:15 a. m.]

332. Legation's 330, May 13, 6 p. m. Following telegram has been received from the Minister, dated May 13, noon:

"With reference to *aide-mémoire* of May 12, my own opinion is that we should not object to action proposed by Nationalist Government. We have recognized this Government and in dealing with permits for export from the United States of arms and munitions of war refusing permits except on requests made by the Nationalist Government through accredited representative at Washington. It seems to me that it naturally follows that we should recognize this Government's right through its agencies to search vessels for munitions of war at a point without such documentation."

For the Minister:

PERKINS



393.11/1131 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 14, 1930—4 p. m.

[Received May 14—10:25 a. m.<sup>a</sup>]

333. My 331, May 13, 7 p. m. Following from Nanking:

"May 13, 1 p. m. Referring to my telegram of May 12, 6 p. m. Following is a translation of a written memorandum addressed to the American Minister by the Ministry of Foreign Affairs:

"May 12, 1930. The National aeronautic forces are now at war at Chengchow and vicinity. Americans should immediately evacuate in order to avoid danger. It is requested that you so inform the Americans concerned by telegraph."

The Legation will note that the memorandum does not refer to the responsibility of the National Government for damage done to American property in Chengchow."

I am sending the following reply:

"May 14, 4 p. m. Your May 13, 1 p. m. Subject to the Minister's approval, please transmit the following to the Ministry of Foreign Affairs:

"The American Legation has received the Ministry of Foreign Affairs' memorandum of May 12, 1930 [stating that] the Chinese Government air forces are now fighting at Chengchow and vicinity; that Americans should immediately evacuate in order to avoid danger; and requesting that the Americans concerned be informed by telegraph. The American Consul General at Hankow has already attempted to telegraph the Americans at Chengchow but he feels a certain doubt lest telegraphic communications may have been interrupted. A further effort is being made to communicate with the American citizens at Chengchow to warn them to withdraw in order to meet as far as possible the wishes of the Chinese Government in this matter. However, the American Government expects that every precaution will be taken to avoid loss and injury to American lives and property, and, should any losses or injury be suffered by American citizens at Chengchow, the American Government reserves the right to demand indemnity."

Repeated to Hankow."

I am also telegraphing directly to Americans in Chengchow advising immediate withdrawal.

For the Minister:

PERKINS

393.11/1133 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, May 15, 1930—11 a. m.

[Received 3:40 p. m.]

Referring to my telegram of May 14, noon. I have just received a radio message from General Huang Shao-hung that American missionaries at Kweihsien prefer to remain in their homes.

<sup>a</sup> Telegram in two sections.

<sup>b</sup> Telegram No. 340, May 16, 1930, 11 a. m., from the Minister in China, stated that the last line of note to Foreign Office was changed to read as follows: "reserve all rights in the matter." (393.11/1134)

Cantonese authorities announce the capture of Sunchow, Kwangsi Province, after heavy bombardment by airplanes and gunboats. All attacks on Kwangsi defenses at various points appeared to have begun.

Department and Legation informed.

JENKINS

893.801 Search/19 : Telegram

*The Secretary of State to the Consul at Nanking (Adams)*

WASHINGTON, May 15, 1930—1 p. m.

10. Your telegram to the Legation May 12, 4 p. m.,<sup>10</sup> Legation's reply May 13, 5 p. m.,<sup>10</sup> Minister's telegram to Legation May 13, noon<sup>11</sup> and Dept's tel. No. 9, May 14, 5 p. m.<sup>12</sup>

Following for the American Minister:

"The Department concurs with the Legation in thinking that the only authorities of the Chinese Government authorized by treaty to board and search American vessels are officials of the Chinese Maritime Customs, and Department would approve representations to this effect to the National Government. Department would also approve a notification to the National Government that that Government will be held accountable for damages or losses improperly inflicted on American vessels or American owners of cargo. Department has carefully considered the observations made in the Minister's telegram dated May 13, noon, and agrees in general therewith. The Department is not, however, prepared to concede that American merchant vessels may rightfully be subject to boarding and search by Chinese naval vessels or any agencies other than those acting in accordance with provisions of treaties between the United States and China. (See Articles 18 and 20 of Treaty of 1858.<sup>13</sup>) In this connection see Department's telegram 255, November 1, 1926, 1 p. m.<sup>14</sup> The Department feels that with the present disorganization in China this position offers the only safeguard for American shipping against endless complications. The Department trusts, therefore, that, if the Chinese consider search of American vessels necessary, the Minister will be able to convince the National Government that search should be conducted by Chinese Maritime Customs vessels or Customs officers. The Department authorizes the Minister to use his discretion in phrasing a reply to the National Government's *aide-memoire* of May 12. In the interval, the Department is suggesting to the Navy Department that it would not seem advisable that American naval vessels use force in opposition to the boarding and searching of American commercial

<sup>10</sup> See telegram No. 330, May 13, 6 p. m., from the Minister in China, p. 113.

<sup>11</sup> See telegram No. 332, May 14, 1 p. m., from the Minister in China, p. 115.

<sup>12</sup> Not printed.

<sup>13</sup> Treaty of peace, amity, and commerce between the United States and China signed at Tientsin, June 18, 1858; Malloy, *Treaties*, 1776-1909, vol. I, p. 211.

<sup>14</sup> *Foreign Relations*, 1926, vol. I, p. 895.

vessels by Chinese naval personnel acting under orders of the National Government.

Repeat to Peiping.["]

STIMSON

893.801 Search/18

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*

[WASHINGTON,] May 15, 1930.

Admiral Hughes<sup>15</sup> called on the telephone and referred to the Department's telegram<sup>16</sup> discussed between Mr. Josselyn<sup>17</sup> and Captain Furlong<sup>18</sup> this morning, instructing the American Minister to China with regard to the position to be taken in connection with the Chinese proposal to search vessels going into and out of Tientsin. Admiral Hughes said that he thought it should be made clear that our tolerance of search by authorized Chinese of vessels did not apply to search if made outside of the three-mile limit. He said that he was apprehensive lest the Chinese might attempt to make such search on the high seas, for instance, at the Taku Bar outside of the three-mile limit. He said that he thought we should not tolerate that. Mr. Hornbeck replied that he would assume that this was a principle of high policy. The Admiral replied that he agreed and that the Navy was not disposed to admit the right of anyone to stop, search and seize on the high seas. Mr. Hornbeck said that he would bring this point to the attention of the Under Secretary or the Secretary but that in the interval he felt that if an instruction need go forward it might be advisable for the Navy Department to telegraph to the Commander-in-Chief; and said that he understood from the incoming telegram which the Navy Department had this morning that the Minister and the Commander-in-Chief are in consultation and that after the Minister receives the Department's expression of views they will confer further. The Admiral said that that was his understanding. The conversation ended with an understanding that the Admiral would telegraph to the Commander-in-Chief.

<sup>15</sup> Admiral Charles F. Hughes, Chief of Naval Operations, Navy Department.

<sup>16</sup> *Supra*.

<sup>17</sup> Paul R. Josselyn, Division of Far Eastern Affairs, Department of State.

<sup>18</sup> Capt. William R. Furlong, Office of Naval Operations, Navy Department.

893.801 Search/18

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*

[WASHINGTON,] May 15, 1930.

Captain Furlong informs me that the Navy Department has telegraphed to the Commander-in-Chief of the Asiatic Squadron and, having informed the Commander-in-Chief of the Department's instructions to the Minister, and having quoted the last sentence thereof, has added for the guidance of the Commander-in-Chief the following:

"You will act in accordance with the foregoing under the understanding that the foregoing quoted despatch applies only to acts taking place in the territorial waters of China. Also confer with the American Minister in regard to this condition."

893.801 Search/16 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 15, 1930—4 p. m.

[Received May 15—10:25 a. m.<sup>19</sup>]

337. My 330, May 13, 6 p. m., and 332, May 14, 1 p. m. The following telegram has been received from the Minister:

"May 14, 4 p. m. Your May 13, 5 p. m.

1. Please see my telegram May 13, noon.

2. I presume that action you propose is based upon fact that treaties recognize and therefore legalize function of Customs to supervise trade for prevention of smuggling.

3. With port of Tientsin in the hands of forces in rebellion against the Government which we have recognized, the Customs are not able to function in normal way.<sup>20</sup>

4. We have recognized right of Chinese Government to control importations of arms. Article 14 of the treaty of 1858 deprives American nationals of extraterritorial rights when they engage in clandestine or fraudulent trade.

5. It seems to me that it therefore follows that we recognize right of Chinese Government to take steps necessary to make that control effective.

6. When Customs cannot function, then some other method is necessary, and I cannot see how we can consider such steps as illegal and therefore make objection.

7. Please inform Department of my views as above.

8. I am withholding action proposed until Department's views are obtained."

For the Minister:

PERKINS

<sup>19</sup> Telegram in two sections.<sup>20</sup> For correspondence on this subject, see p. 223 ff.

893.801 Search/17 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 16, 1930—6 p. m.

[Received May 16—3:35 p. m.]

344. My 337, May 15, 4 p. m. In connection with the subject matter of my telegram under reference the following "instruction from the National Government" quoted in a note from the Foreign Office of April 23rd is repeated for the Department's information:

"Beginning with April 18, 1930, permits covering any articles for military use and fighting equipment purchased from any foreign country and shipped to China shall not be effective unless they have been examined and stamped by the Chinese Legation in that country. Otherwise the shipment shall be dealt with as contraband. The contracting foreign firm and the purchasing agents shall be investigated and severely punished and the ship and ammunition confiscated."

For the Minister:

PERKINS

893.00/10844 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 18, 1930—4 p. m.

[Received May 18—12:15 p. m.]

348. Following from American Consul at Swatow:

"May 16, 4 p. m. Conditions in the interior of this district are exceedingly chaotic at present. Of the 20 magisterial districts, 5 are reported to be in the hands of the Reds. Red forces under the direction of Chu Teh and Mao Tse-tung have captured Pingyuan and are approaching Hsingning. Majority of the refugees from the latter and other places in the interior have come to Swatow. Regular army and militia opposing 2,000 Reds 40 miles west of Swatow. I have instructed women missionaries at Chiaying that they should come to Swatow immediately. Fukien troops withdrawing from this area to operate against Lu Hsing-pang. Communication with interior very poor."

For the Minister:

PERKINS

893.801 Search/20 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 21, 1930—4 p. m.

[Received May 21—11:15 a. m.<sup>21</sup>]

355. Following telegram has been received from the Minister for the Department's information:

"May 19, 8 p. m. Department's telegram No. 10, May 15, 1 p. m.<sup>22</sup>

1. I conferred with Admiral McVay<sup>23</sup> yesterday, May 18th. Admiral McVay understands that words 'In the interval', beginning last sentence, mean that pending Chinese reply to my communication American naval vessels should not use force immediately upon boarding of American commercial vessels by Chinese naval personnel.

2. I handed to Vice Minister for Foreign Affairs Frank Lee an *aide-memoire* at 3:45 p. m. today, of which following are essential parts in this connection:

(a) 'The American Minister has now been instructed by his Government to invite the attention of the National Government of the Republic of China to the fact that the only authorities of the Government of China authorized by the treaties between the United States and China to board and search American vessels are the Chinese Maritime Customs authorities.

(b) The American Minister has been further instructed to say that in view of this fact the Government of the United States will, of necessity, feel itself constrained to hold the National Government of the Republic of China accountable for any cruelty [*damage?*] or loss suffered by American vessels or American owners of cargo in cases where American vessels are boarded and searched by agencies other than those authorized by the treaties between the United States and China.'

3. Vice Minister Lee stated that they had no revenue cruisers in that vicinity but that it might be possible to place customs officers upon Chinese naval vessels in order that searches might be made by custom[s] officers. I informed him that it was my opinion that the American Government would have no objection if searches were made by customs officers."

For the Minister:

PERKINS

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<sup>21</sup> Telegram in two sections.

<sup>22</sup> To the Consul at Nanking, p. 117.

<sup>23</sup> Commander in Chief, U. S. Asiatic Fleet.

893.51/5335

*Memorandum by the Minister in China (Johnson)* <sup>24</sup>

NANKING, May 21, 1930.

In conversation with Dr. Frank Lee, Vice Minister for Foreign Affairs today, I referred to the question of Tientsin and the desire of the Chinese to stop and search vessels going in and out of Tientsin. Vice Minister Lee stated that he had heard nothing further in regard to the matter, that he had referred it to the Minister of Finance and also to the Ministry of the Navy. He mentioned the fact that in conversation with Admiral McVay the latter had objected to the idea of putting Customs officers on Chinese naval vessels and to the suggestion made that the naval vessels be turned over to the Customs for purposes of search. He stated that the Chinese Navy naturally objected to flying the Customs flag on naval vessels.

NELSON TRUSLER JOHNSON

393.11/1112: Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, May 22, 1930—5 p. m.

172. Legation's 291, April 25, 5 p. m., and Department's 152, May 2, 5 p. m. For your information. Question of withdrawal of American Catholic missionaries from Kanchow was again discussed with Father Burke on May 17. Latter stated that he did not believe the Church would instruct them to withdraw, that he thought whether or not they did withdraw would depend largely on their own discretion and estimate of the situation and that he believed information on that question could best be had by consulting the Apostolic delegate in China. Father Burke was informed that the Department felt it had done everything it could to place its views before the Catholic authorities and that a situation might develop in which it would be highly desirable to know definitely what attitude the Catholics at Kanchow could be expected to take regarding the question of withdrawal. He was told that if it should prove necessary to obtain more definite indications, the Department would probably instruct the American Minister at Peiping to make the necessary inquiries.

[Paraphrase.] It seems to be clear that the Catholic authorities in Washington do not feel in a position either to advise their coordinate or superior authorities or to instruct Bishop O'Shea. In view of the conversation you reported with the Apostolic delegate in

<sup>24</sup> Copy transmitted to the Department without covering despatch; received July 17, 1930.

China, the Department doubts that any action by him can be expected or should be sought. Therefore, it is suggested by the Department to proceed as follows:

The Consul General at Hankow has reported that General Ho Ying-chin said he is able to communicate by land wire and by wireless with Kanchow (see Hankow's telegram of April 30, 2 p. m.). Ask Lockhart to try to communicate through Ho directly with the American citizens at Kanchow in order to get the facts respecting their present situation and welfare and to find out if and in what circumstances these Americans, any or all of them, would act in accordance with American official advice to withdraw. [End paraphrase.]

STIMSON

893.00/10855 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 23, 1930—1 p. m.  
[Received May 23—3:30 a. m.]

360. Following from Hankow:

"May 22, noon. Steamship *Chi Ta* of Yangtze Rapid Steamship Company fired on 3 miles above Chenglingki May 20, presumably by bandits. About 100 shots fired, of which several struck the vessel wounding 1 Chinese member of the crew. Have lodged customary protest with Chinese authorities."

For the Minister:  
PERKINS

393.11/1146 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 24, 1930—4 p. m.  
[Received May 24—9:10 a. m.]

367. Legation's 365, May 23, 6 p. m., paragraph 2.<sup>25</sup> Following telegram dated April 23 has been received from the Commander in Chief, United States Asiatic Fleet:

"The American Minister has written to the Consul General at Hankow and advised him that Americans should be discouraged from going to Kuling this summer. I have discussed the question with the Minister and informed him that it would be impracticable to afford protection with naval forces."

For the Minister:  
PERKINS

<sup>25</sup> *Ante*, p. 13.



893.00/10859 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, May 27, 1930—6 p. m.

[Received May 27—2:55 p. m.]

34. The following telegram has been sent to the Legation:

"May 27, 5 p. m.

1. A group of bandits numbering approximately 1,000 cut Peiping-Hankow line just north of Hwayuen, Hupeh, night before last, captured and killed the station master at Wangchiatien and are holding other Chinese as hostages. Troops have now driven bandits from immediate vicinity and line has been reopened. I have again communicated by mail with head master of American school at Kikungshan warning him of danger and advising withdrawal of Americans to Hankow. Telegraph lines are down. Danger in Northern Hupeh and Southern Honan from bandit operations apparently increasing from day to day. Same is true in other areas in this district, notably Kiangsi, Hunan and West Hupeh.

2. Japanese sources report Kweiteh in Eastern Honan recaptured by Northerners. Not confirmed here.

3. Large quantities of barbed wire apparently for use in erecting defenses are being shipped to a point 18 miles south of Wuchang.

4. Telegraph lines to Kiukiang have been cut. In view of bandit situation in Kiangsi Province I am advising American citizens who make inquiry to defer visit to Kuling until situation improves.

5. Unless the National authorities take some effective measures to curb the spread of banditry and the activities of Communist armies, a large section of this part of China will shortly be completely under the domination of these elements who have already wrought great damage to life and property.

Repeated to Nanking and Department."

LOCKHART

893.00/10866 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 1, 1930—6 p. m.

[Received June 1—1:50 a. m.]

392. Following from American Consul General at Hankow:

"May 31, 1 p. m. Yangtze Rapid Steamship lighter no. 1 was heavily fired on by Communist soldiers at Hosueh on May 28 and hit many times but no casualties. British ship *Pingwo* attacked at the same time and place and hit about seventy times and three of the crew wounded. Firing came from machine guns and rifles."

For the Minister:

PERKINS

893.00/10870 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 2, 1930—5 p. m.

[Received June 2—1:55 p. m.]

395. Following from American Consul General at Shanghai:

"May 30, 1 p. m. Thirtieth of May<sup>26</sup> passed without serious incident due largely to precautionary measures taken and thorough co-operation between police officials of the International Settlement, French concession and Chinese municipality.

A serious assault was made yesterday on the Whangpoo Conservancy pay boat by bandits, resulting in the killing of Chinese engineer, seriously wounding two foreigners and slightly wounding four Chinese, all in the employ of the Whangpoo Conservancy. The act occurred within the harbor limits near lower boundary of the International Settlement. The bandits captured \$22,000 in loot. There is evidence to indicate that the attack was directed particularly against the foreigners since the leaders shouted that the foreigners should be killed first.

This outrage should not be regarded as in any sense connected with the May 30th anniversary propaganda as there is nothing to indicate that the bandits were in touch with other Communistic activities which were to be directed against the International Settlement."

For the Minister:

PERKINS

893.00/10872 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 4, 1930—4 p. m.

[Received June 4—2:35 p. m.<sup>27</sup>]402. Legation's 396, June 2, 9 p. m., paragraph 1.<sup>28</sup>

1. Following from the American Consul at Nanking:

"June 3, 5 p. m. Best information available here, partly from Bert Hall who is doing battle flying for the National forces on the Lunghai front, is as follows:

(1) Reports of Northern victory at Lunghai front are untrue but heavy fighting is occurring in the neighborhood of Lanfeng in which both sides have incurred heavy losses. National army is using its best units but has thus far been unable to break enemy lines. Considerable numbers of wounded are arriving in Nanking. Chiang Kai-shek is still in neighborhood of Hsuehchowfu and Kuomin News Agency admits that he has received light wound in arm from aeroplane bomb.

(2) Have received reliable news of advance of rebels from Kwangtung into Hunan and reports of heavy troop movements through

<sup>26</sup> For incident on May 30, 1925, see *Foreign Relations*, 1925, vol. I, pp. 647 ff.<sup>27</sup> Telegram in two sections.<sup>28</sup> Not printed.

Tientsin into Shantung. I am today by mail confidentially advising all American women and children and as many men as possible in Nanking district north of Yangtze to leave that area at once for places of safety, adding that have ascertained this could be done by hastening departures on summer vacations. I advised that I could not under existing conditions recommend Kuling as a safe summer resort."

2. I have advised Adams that the Legation approves action taken as reported in paragraph 2 of his telegram.

For the Minister:  
PERKINS

893.00/10878 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 4, 1930—6 p. m.  
[Received June 4—5:30 p. m.<sup>29</sup>]

404. Legation's 396, June 2, 9 p. m.<sup>30</sup>

1. Following from American Consul at Tsinanfu:

"June 3, 3 p. m. Yesterday afternoon General Han informed the Consuls here that he had withdrawn all of his troops to the south bank of the river in accordance with the instructions of the Government. He also said that one of his own men had replaced General Chen's man as local defense commissioner.

It was gathered General Han contemplated holding Tsinanfu even though the Government forces might be defeated on the Lung-hai front, hoping thereby to force the Northerners to treat with him in such a contingency, or retreat [*retreating?*] east along the Kiaowchow Railway as a last resort.

Withdrawal of Han's troops places Tsinanfu directly in the fighting zone. It would be possible to shell the city from the other side of the river.

At the time of General Han's announcement I and my colleagues expressed the hope that no fighting would be carried on in the city and settlement of Tsinanfu. While expressing a desire to afford all possible protection to foreign residents here, General Han was unable to assure us that there would be no fighting in the immediate vicinity of Tsinanfu due to his apparent determination not to give up the Yellow River Bridge without a struggle.

In view of the situation I and my colleagues decided today to request our respective Legations to communicate with the proper authorities on both sides in an effort to prevent fighting in Tsinanfu and the immediate vicinity and if possible to arrange for a guard of military police to be left here by the outgoing military authorities until the arrival of the incoming Government officers. From my Japanese colleague it is understood that the Japanese Government has already brought the question of the protection of its nationals here to the attention of both belligerents."

<sup>29</sup> Telegram in two sections.

<sup>30</sup> Not printed.

2. I am telegraphing the American Consul at Nanking to request the Ministry for Foreign Affairs that steps be taken to afford adequate protection to American citizens in the Tsinanfu district. I have also made personal and informal representations to Marshal Yen's local representative who is requesting that suitable measures be taken by the Shansi authorities to the same end.

3. Stanton is being instructed to use his discretion in advising the withdrawal of American citizens from Tsinanfu.

For the Minister:  
PERKINS

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893.00/10877 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 5, 1930—noon.

[Received 2: 50 p. m.]

407. My 404, June 4, 6 p. m. Following from American Consul at Tsinanfu:

"June 4, 4 p. m. Shansi troops now are all along northern bank of Yellow River and have been directing artillery and rifle fire since daylight against Han's men at Lokow, 5 miles north of Tsinanfu. A good many junks including some loaded with cargoes of American oil burned and sunk. City panicky as smoke of fires and boom of guns can be seen and heard. Shansi columns will probably try to cross to the east and west of Tsinanfu with the two railways as objectives. Am urging Americans here, particularly women and children, to leave."

For the Minister:  
PERKINS

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893.00/10876 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, June 5, 1930—1 p. m.

[Received 3 p. m.]

35. The following telegram has been sent to the Legation:

"June 5, noon. My May 31, 4 p. m.; and June 3, 3 p. m.<sup>31</sup> Notwithstanding assurances contained in above-mentioned telegrams, it is now well established that Ho Chien has given up Changsha. Troops were being withdrawn to Yochow yesterday. It is also said Chang Fa-kwei's troops (or Kwangsi troops) are either in very close proximity to Changsha or are actually in the city by this time. Quite a number of foreigners in Changsha including several Americans have gone over to the island for temporary refuge. Apparently

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<sup>31</sup> Neither printed.

thus far all foreigners are safe. U. S. S. *Luzon* left for Changsha today. Considerable tenseness in local military circles incident to developments in Hunan. . . .

Repeated to the Department and Nanking."

LOCKHART

393.1111 King, Clifford J./1 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, June 6, 1930—1 p. m.

[Received June 6—11 a. m.]

37. The following telegram has been sent to the Legation:

"June 6, noon. Reverend Clifford J. King, an American missionary of the Society of the Divine Word, legal residence, Techny, Illinois, currently registered this Consulate, was captured by bandits in southern Honan between Loshan and Chengyang near Tungchung on June 1. Details of the capture not yet known. I have requested General Ho Ying-chin to take every possible means to obtain the release of Reverend King. Repeated to Department."

LOCKHART

893.00/10882 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 6, 1930—1 p. m.

[Received June 6—11 : 20 a. m.]

410. Legation's 404, June 4, 6 p. m.

1. British Minister this morning invited Japanese and German representatives and myself to discuss situation at Tsinanfu. Consensus of opinion was that representations had best be limited to reminding both sides of their responsibility to do everything possible for the protection of foreign residents. British and German Ministers, who had as yet taken no action, stated their intention to follow course taken by this Legation as reported in the Legation's telegram under reference.

2. British Minister also expressed his intention to advise his nationals in the Tsinpu area<sup>32</sup> in accordance with Adams' warning to American nationals as reported in the Legation's No. 402, June 4, 4 p. m.

For the Minister:

PERKINS

<sup>32</sup> Area of the Tientsin-Pukow Railway.

393.1111 King, Clifford J./2: Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, June 6, 1930—5 p. m.

185. Hankow's telegram June 6, noon, regarding capture of Reverend King.<sup>33</sup>

Mission notified. Use every effort effect release and report results by telegraph.

STIMSON

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393.1111 King, Clifford J./3: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 7, 1930—11 a. m.

[Received June 7—4:20 a. m.]

415. Hankow's June 6, noon. I am instructing the American Consul at Nanking to inform the Ministry for Foreign Affairs of the capture of the Reverend Clifford J. King and to urge every effort be made to effect his early release.

For the Minister:

PERKINS

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393.11/1156: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 7, 1930—2 p. m.

[Received 2:15 p. m.]

418. Legation's 404, June 4, 6 p. m. Following from American Consul at Nanking:

"June 6, noon. Your June 4, 6 p. m.

1. In absence of Wang, I discussed this morning with Vice Minister Lee the safety of Americans at Tsinanfu, leaving with him a memorandum embodying the Legation's expectation that every effort will be made to protect American citizens in Tsinanfu area and that suitable measures will be taken to maintain order in Tsinanfu in the event of the withdrawal from that place of government forces.

2. Lee informed me confidentially that the question of the safety of foreigners in Tsinanfu was taken up last night with Chiang Kai-shek by telegraph. Lee said that he would let me know within a day or two the result of this action."

For the Minister:

PERKINS

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<sup>33</sup> See telegram No. 37, June 6, 1 p. m., from the Consul General at Hankow, p. 128.

893.00/10886 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

[Extracts]

HANKOW, June 7, 1930—midnight.

[Received June 7—9:30 a. m.]

39. The following telegram has been sent to the Legation:

"June 7, 3 p. m.

I received a formal notice this morning from the headquarters of the Commander in Chief of the Army, Navy and Air Fleet [*forces?*] at Hankow of the establishment of a blockade in the Siang River. Notice states that foreign shipping companies will not be permitted to navigate the Siang River at present in view of the invasion of Hunan by Kwangsi-Chang Fah-kwei faction and that the Government will not assume any responsibility for losses incurred if foreign shipping companies violate the blockade regulations. No mention is made of foreign naval vessels.

Repeated to Nanking and Department.

LOCKHART

893.00/10888 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 9, 1930—3 p. m.

[Received June 9—10:55 a. m.]

422. 1. Following from the American Consul at Amoy:

"June 8, 6 p. m. Kulangsu municipal council have notified consular corps that the Chinese members of the council state that present situation much worse than appears, with even probability general uprising, and situation slowly but steadily getting worse. Council states that cannot accept responsibility should the Chinese members' prediction materialize. Council states that considers responsibility protection of life and property should no longer wholly rest with council primarily a civil authority but rather with interested powers. Consular corps considers naval protection desirable especially in view of general conditions in this country."

2. Legation is requesting the Commander in Chief to afford naval protection against any possible emergency endangering American citizens. British Minister has received since his arrival report and is likewise requesting British Admiral to send naval assistance. A Japanese warship has already arrived at Amoy.

For the Minister:

PERKINS

893.00/10889 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 9, 1930—5 p. m.  
[Received June 9—10:30 a. m.]

424. Legation's 422, June 9, 3 p. m. With reference to the situation at Amoy a mail despatch from Putnam dated May 29 explains that a band of some 70 Communists carried out on May 25 a raid on the Amoy prison. After capturing the prison, killing the warden and assistants, they released 54 prisoners about half of whom are Communists. In a report dated May 27 the Kulangsu foreign chief of police states:

"The Communists have deliberately delivered a successful attack against the Amoy authorities, and the public of Amoy are of the opinion that the attack will be followed by others culminating in a general civil uprising. In this regard Kulangsu by its status as an international settlement is very susceptible to an attack. If this challenge is to pass without a successful counter the situation will immediately become critical, and a reign of terror will, in the near future, without a warning of any kind, overtake Amoy and possibly involve Kulangsu."

For the Minister:  
PERKINS

893.00/10892 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 10, 1930—3 p. m.  
[Received June 10—10:25 a. m.]

428. Following from American Consul at Foochow:

Strenuous battle June 7th—8th between Lu Hsing-pang forces attempting to enter Foochow and the fifty-sixth Division of the National Army. Government forces victorious now purposes [pursues] enemy up Min River. City quiet, no Americans molested. Urging Americans, 17 men, 21 women, 10 children, to withdraw to Foochow from the disturbed area. Japanese gunboat with 300 marines at Pagoda Anchorage."

Repeated to Commander in Chief.

For the Minister:  
PERKINS



393.1163/422

*The Consul General at Hankow (Lockhart) to the Minister in China  
(Johnson)*<sup>35</sup>

L. No. 984

HANKOW, June 10, 1930.

SIR: I have the honor to enclose for your information a copy of a communication that has been received by this Consulate General from Reverend Casper C. Skinsnes<sup>36</sup> of the Lutheran United Mission of Sinyangchow, Honan, in regard to the continued occupation of that mission's premises by various hospital units of the Chinese army.

This case is again being taken up with General Ho Ying-ching, but it is not to be anticipated that his instructions will bring about the evacuation of the premises.

Although the higher government officials, when approached, insist that they have issued strict instructions to all subordinate units to refrain from occupying the premises of missionary societies, nevertheless, in many instances the officers of the units occupying mission premises maintain that they have definite orders to do so. It is believed that missionary societies in this Consular District will continue to have no freedom whatever from the continual and frequent occupation of their premises by Chinese troops unless strong representations made to the National Government may bring forth some new method of affording them the protection guaranteed to them by the treaties.

I have [etc.]

F. P. LOCKHART

393.1163/423

*The Consul General at Hankow (Lockhart) to the Minister in China  
(Johnson)*<sup>37</sup>

No. 985

HANKOW, June 11, 1930.

SIR: I have the honor to enclose a copy of a communication that has been received from the Reverend Peter Valder<sup>36</sup> of the Lutheran Brethren Mission at Tsaoyang, Hupeh, giving the details of an attack upon the mission at that place by troops endeavoring to find quarters.

It will be noted that the proclamations issued by the National Government to protect the mission property from just such incidents were completely ignored, and that the lives of the missionaries were

<sup>35</sup> Copy transmitted to the Department by the Consul General in his despatch No. 1426, June 10, 1930; received July 17.

<sup>36</sup> Not printed.

<sup>37</sup> Copy transmitted to the Department by the Consul General in his despatch No. 1428, June 11, 1930; received July 17.

endangered by the determination of the troops to occupy the mission premises.

I have taken this matter up with General Ho Ying-chin in an endeavor to prevent a recurrence of such incidents and to obtain the punishment of the officer responsible for the attack.

I have [etc.]

F. P. LOCKHART

393.11/1211

*The Minister in China (Johnson) to the Secretary of State*

No. 253

PEIPING, June 12, 1930.

[Received July 16.]

SIR: I have the honor to transmit herewith for the Department's information a copy of despatch No. 951, of April 18, 1930, from the American Consulate General at Hankow, concerning protection for American oil products on consignment to Chinese agents, together with a copy of the Legation's reply of to-day's date. It does not seem to the Legation to be consistent to go further in the protection of American property than in the protection of American lives.

I have [etc.]

For the Minister:

MAHLON F. PERKINS

*Counselor of Legation*

[Enclosure 1]

*The Consul General at Hankow (Lockhart) to the Minister in China (Johnson)*

L. No. 951

HANKOW, April 18, 1930.

SIR: I have the honor to enclose a copy of a letter which the Consulate General has received from the Hankow branch of the Standard Oil Company of New York,<sup>38</sup> concerning the protection of its stocks on consignment at Wuchanghsien, Hupeh, and a copy of my reply,<sup>38</sup> indicating the action taken by this office. There is also enclosed a copy, with translation, of a letter addressed by me to General Ho Ying-chin,<sup>38</sup> in charge of Headquarters of the Commander-in-Chief of the Army, Navy, and Air Forces, at Hankow. This is the second time within two months that the Consulate General has had occasion to request the protection of the Standard Oil Company's consigned stocks at Wuchanghsien. I may add that several such requests have previously been received in connection with stocks on consignment at other places.

I should appreciate very much the Legation's instruction whether this office may with propriety continue, at frequent intervals, such

<sup>38</sup> Not printed.

representations involving requests for the protection of American oil products on consignment with Chinese agents, or whether it should confine its representations to bringing to the attention of the appropriate Chinese authorities the reported existing conditions, with a statement that American property appears to be endangered. I am actuated to make this request for instructions because of the tenor of the Legation's telegram of March 12—11 A. M., quoting the Legation's telegram of March 12—11 A. M. to the Department <sup>40</sup> concerning repeated requests for the protection of American citizens resident in southern Kiangsi.

I have [etc.]

F. P. LOCKHART

[Enclosure 2]

*The Minister in China (Johnson) to the Consul General at Hankow (Lockhart)*

PEIPING, June 12, 1930.

SIR: In reply to your despatch No. 951, of April 18, 1930, requesting the expression of the Legation's opinion whether your office may with propriety continue at frequent intervals to make representations involving requests for protection of American oil products on consignment with Chinese agents, or whether it should confine its representations to bringing to the attention of the appropriate Chinese authorities reports of existing conditions, with a statement that American property appears to be endangered, I beg leave to inform you that, after careful consideration, the Legation is of the opinion that the latter course is proper.

I am [etc.]

For the Minister:  
MAHLON F. PERKINS  
*Counselor of Legation*

393.11/1166: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 13, 1930—3 p. m.

[Received 4:25 p. m.<sup>41</sup>]

439. Department's 172, May 22, 5 p. m.

1. Following from American Consul at Hankow:

"May 27, 3 p. m. On May 22nd General Ho Ying-chin received a telegram from General [Chin] Han-ting at Kanchow, 'The Communists were dispersed and suppressed around the said city' and also that Bishop O'Shea is staying safely there. General Ho expresses the belief that American citizens and property at Kanchow will be adequately protected. Notwithstanding this assurance it is known that the families of many Chinese officials are withdrawing to Kiu-

<sup>40</sup> *Ante*, p. 93.

<sup>41</sup> Telegram in two sections.

kiang and that some foreign families are also proceeding there under military escort from interior points in Kiangsi.

As soon as telegraph communication to Kiukiang now interrupted is restored I will inform Bishop O'Shea and inquire as to present welfare of Americans resident Kanchow and as to whether and in what circumstances any or all of them would act in conformity with American official advice to withdraw. In the meantime I have asked General Ho Ying-chin to despatch such a message by radio or land lines when restored. Please see my despatch number 973 of May 21 which enclosed a letter from Bishop O'Shea dated May 11<sup>42</sup> reporting himself and other Americans at Kanchow safe on that date but the general situation still extremely unsettled."

2. Legation is sending the following to Lockhart:

"June 13, 3 p. m. Your May 27, 3 p. m. Commander in Chief telegraphed June 10 that Nanchang will probably be evacuated within 10 days if Chang Fah-kwei maintains his advance and that Communists would then control entire province of Kiangsi. In this eventuality, are there any further measures which suggest themselves to you on behalf of American citizens at Kanchow?"

For the Minister:  
PERKINS

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893.1111 King, Clifford J./8: Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, June 16, 1930—noon.  
[Received June 16—9:10 a. m.]

49. The following telegram has been sent to the Legation:

"June 16, noon. Reverend Clifford King has been released from custody of bandits and is unharmed. The local garrison at Loshan effected the rescue by sending about 160 soldiers to the village where ascertained King was being kept by the bandits and forcibly brought him to safety. Repeated to Nanking and Department."

LOCKHART

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893.00/10979

*The Consul at Tsinan (Stanton) to the Minister in China (Johnson)* <sup>43</sup>

[Extract]

No. 102

TSINAN, June 16, 1930.

SIR:

All Americans in Tsinan, Taian, Tsining, Tenghsien and Weihsien who decided to leave upon the advices of the Consulate to the number

<sup>42</sup> Neither printed.

<sup>43</sup> Copy transmitted to the Department by the Consul at Tsinan in his despatch No. 76, June 16, 1930; received July 15.

of 8 men, 30 women and 37 children have now left and only a few Americans now remain in these cities.

I have [etc.]

E. F. STANTON

393.11/1168 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 17, 1930—noon.

[Received 2:45 p. m.]

450. Legation's 439, June 13, 3 p. m. The following telegram from the American Consul General at Hankow is being repeated to the Minister at Nanking:

"June 15, 1 p. m. Inasmuch as the Americans resident at Kanchow and in that vicinity have more than once been advised to withdraw to a zone of safety I can offer no further suggestion as a possible means of relief except that it might be advisable to continue to urge the Nanking authorities to supply adequate forces for the protection of American life and property in the Kanchow area. So far as can be ascertained Chang Fah-kwei does not appear to be making any headway towards either Nanchang or Hankow at present."

For the Minister:

PERKINS

393.11/1177 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, June 20, 1930—7 p. m.

204. Your 451, June 17, 1 p. m., last sentence.<sup>45</sup> The Department assumes that the Legation has at all times in mind possible necessity for the issuing of instructions to consular officers in China or for requesting the despatch of naval vessels with a view to providing for the safety and well-being of American consular officials and other American citizens. Please keep the Department fully informed in this regard.

STIMSON

893.00/10926 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 24, 1930—noon.

[Received June 24—10:10 a. m.]

490. Legation's 468, June 19, 2 p. m.<sup>45</sup> Following from American Consul at Tsinanfu:

"June 23, 6 p. m. Han has just informed the Consuls that he will withdraw from Tsinanfu within the next 3 or 4 days east along

<sup>45</sup> Not printed.

the Kiaochow Railway since the fall of Changching is imminent. We again expressed the hope that there will be no fighting here and that the local police will be left with arms and ammunition. He promised the latter but said he did not know whether the Shansi forces would permit him to withdraw unmolested or fight a rear-guard action with him to the suburbs of Tsinanfu. Han apparently has no understanding with the other side regarding withdrawal. Would it be possible to request Shansi military authorities to enter Tsinanfu only after the departure of Han's troops. Nearly all Americans have now left here."

For the Minister:  
PERKINS

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893.00/10932 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 25, 1930—10 p. m.  
[Received June 26—12: 05 a. m.]

501. Legation's 490, June 24, noon. Lieutenant White,<sup>46</sup> now at Tsinanfu, telegraphed yesterday that the troops of General Han are withdrawing; that retreat is orderly and city quiet so far and that American Consul requests Legation urge Shansi authorities permit only regular troops enter city first as Shansi allies reported to be within 20 li of Tsinanfu. I am telegraphing Stanton as follows:

"June 26, 10 p. m. Your June 23, 6 p. m., and White's June 24th. Legations principally interested have again reminded Marshal Yen's representative here of the obligation to protect foreign nationals in the event of Han's withdrawal from Tsinanfu. Chu<sup>47</sup> has sent a further telegram to Yen asking him to renew his order to this effect. It is not regarded as advisable to make any specific request in that regard."

For the Minister:  
PERKINS

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893.00/10937 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 27, 1930—10 p. m.  
[Received June 29—12: 30 a. m.]

510. 1. Canton's June 24, 1 p. m.<sup>48</sup> has been repeated to the American Consuls at Foochow, Amoy and Swatow.

2. Following from American Consul at Foochow:

"June 27, 10 a. m. Your June 26, 1 p. m.<sup>48</sup> Ironsides apparently coming to join Lu Hsing-pang. Lu recently appointed Commander

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<sup>46</sup> First Lieut. Thomas D. White, language officer, Legation in China.

<sup>47</sup> Chu Ao-hsiang, head of Marshal Yen Hsi-shan's "Diplomatic Bureau" at Peiping.

<sup>48</sup> Not printed.

of Eighth Army and Governor of Fukien by the Northern Coalition. Thirty-six Americans still in Lu territory unable to evacuate. River completely blocked."

Repeated to the Commander in Chief.

For the Minister:  
PERKINS

393.11/1179 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 30, 1930—7 p. m.  
[Received 7:52 p. m.]

522. Department's 204, June 20, 7 p. m.

1. Copy of despatch of June 3rd from Consul at Amoy was sent direct by him to the Commander in Chief. On June 9th Legation requested Commander in Chief to afford naval protection at Amoy (see Legation's 422, June 9, 3 p. m.). On June 13th Commander in Chief telegraphed both the Legation and the Secretary of the Navy as follows:

"The *Barker* at Amoy sent the following: 'In Kulangsu a general uprising will occur June 15th according to rumors from Chinese sources. While naval ships are present trouble appears improbable. There is also one British destroyer here.'"

The Legation did not inform the Department of the arrival of the *Barker* at Amoy in view of the instructions contained in the Department's telegram 193, September 14, 6 p. m., 1926.<sup>40</sup>

2. The Legation endeavors constantly to watch local situation in all parts of China with a view to the taking of all appropriate measures for the protection of American citizens. It does not however ordinarily request the Commander in Chief to despatch naval vessels to particular ports unless the Consul makes a specific request for naval assistance.

For the Minister:  
PERKINS

393.11/1180 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 1, 1930—11 a. m.  
[Received July 1—10:20 a. m.]

523. Legation's 510, June 27, 10 p. m. Commander in Chief on June 29th directed U. S. S. *Barker* to proceed to Foochow and to report on conditions there.

For the Minister:  
PERKINS

<sup>40</sup> Not printed.

898.00/10943: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 1, 1930—noon.

[Received 3:30 p. m.]

524. Following from American Consul General at Hankow:

"A telegram dated June 24 and received today from an American missionary at Sinyangchow reads as follows: 'Yesterday morning missionaries Suiping, Honan, driven through streets with sticks by Hsuan Chuan Tui and Tangpus. Details unknown.'"

Following from American Consul General at Hankow:

"June 30, 10 a. m. My June 27, 3 p. m. Personal letter Sinyangchow confirms report that Reverend Thomas J. Lee and Deaconess Thone Sandland, both of whom are American citizens currently registered here, were paraded through the streets of Suiping recently and roughly handled by a local political organization.

Trains on the Kinhan Railway are proceeding as far north as Yencheng. There has been practically no fighting occurring on the Kinhan front for several days."

For the Minister:

PERKINS

393.11/1231

*The Minister in China (Johnson) to the Secretary of State*

No. 298

PEIPING, July 2, 1930.

[Received July 30.]

SIR: With reference to the Legation's telegram No. 450, of June 17, 12 noon, and previous correspondence, concerning the safety of Americans resident at Kanchow, I have the honor to transmit herewith for the Department's information a copy of despatch No. 964, of June 17, 1930, from the American Consulate-General at Canton.<sup>50</sup> The Department will be pleased to note that it would appear that Bishop O'Shea has refused permission to certain priests under him to return to places considered dangerous.

I have [etc.]

For the Minister:

PERKINS

*Counselor of Legation*


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<sup>50</sup> Not printed.



893.00/10943 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, July 2, 1930—5 p. m.

223. Your 524, July 1, noon.

1. The Department desires that urgent protests be made to the highest authorities of the military side now in control of Suiping, Honan, against the treatment said to have been accorded to American citizens there.

2. The Department notes that the local political organizations reported as responsible for the indignities and cruelties perpetrated against American citizens appear to be the propaganda bureau and a local branch of the Kuomintang. In view of this fact the Department suggests that even if Suiping is now in the hands of the Northern faction a protest be made to Nanking referring to the alleged responsibility of Kuomintang party organizations.<sup>51</sup>

3. Department desires a report from Hankow whether the American citizens at Suiping or other places in Honan have desired or attempted to leave for places of safety and whether steps have been taken or are in progress toward that end.

STIMSON

393.11/1186 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 3, 1930—1 p. m.

[Received July 3—10 a. m.]

537. Legation's 522, June 30, 7 p. m. Commander in Chief on July 1st instructed commander of the South China Patrol as follows:

"As a matter of routing it is desired that destroyers assigned to South China Patrol visit Foochow, Amoy and Swatow for a period of about a week unless it is necessary to stay for a longer time in any one of these ports."

For the Minister:

PERKINS

<sup>51</sup> Note of protest to the Chinese Ministry for Foreign Affairs was telegraphed to the Consulate at Nanking July 5, 1930 (893.00/11121).

893.00/10954 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 5, 1930—5 p. m.  
[Received July 5—7:39 a. m.]

543. 1. Following from American Consul at Foochow:

"July 2, 9 a. m. As Lu Hsing-pang has joined Northern Coalition, suggest that you urge their Peiping representative to instruct Lu to facilitate departure and provide safe conduct for the Americans from his territory who expected to come down to Kuliang early in June."

"July 3, 3 p. m. Negotiations of the Chinese Chamber of Commerce to open river traffic have failed. Lu still refuses to assist Americans to come down. Am trying to communicate with him direct by naval radio. Have been informed Government forces halting below Shiukow awaiting assistance. Duration of impasse indefinite as no reinforcements in sight. In the meantime Americans throughout Lu territory in no immediate danger. Their safety would be most precarious should Lu forces suffer further defeat and disintegrate, although this unlikely. Lu now aligned with Northern Coalition and has recently executed three of the six commissioners kidnapped last January. Ironsides last reported to be Nanan, southern Kiangsi."

2. Diplomatic Bureau here is requesting Yen <sup>52</sup> to issue instructions to Lu in accordance with Foochow's request.

For the Minister:  
PERKINS

893.00/10959 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

[Extracts]

PEIPING, July 6, 1930—noon.  
[Received July 7—5 a. m.<sup>53</sup>]

544. Following from the American Consulate General at Hankow:

"July 5, 1 p. m. Events of the week are summarized as follows:

10. All Americans (3) left Yochow on July 3rd immediately preceding peaceful taking of that city by Peng Teh-hwai, notorious Communist, and his soldiers and followers roughly numbering 6,000. Americans after leaving Yochow took passage on Japanese steamer and arrived safely at Hankow morning July 4th.

11. *Guam* fired on from shore at or near Yochow about 3 p. m., July 4th, returned and silenced fire with about 23 three-inch and 1,500

<sup>52</sup> Marshal Yen Hsi-shan, Commander in Chief of the Northern Coalition forces.

<sup>53</sup> Telegram in two sections.

rounds machine gun. One American sailor killed. *Luzon*, with Admiral Craven aboard, left Hankow for Chenglingki July 4, 5 p. m."

For the Minister:  
PERKINS

893.11/1188 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 7, 1930—5 p. m.  
[Received 5 : 20 p. m.]

548. Legation's 365, May 23, 6 p. m., paragraph 2<sup>54</sup> and Legation's 544, July 6, noon. Following telegram has been sent to the American Consul General at Hankow and repeated to Commander in Chief for his information.

"July 7, 5 p. m. Your July 5, 1 p. m. The Legation is concerned with regard to the safety of Americans in Hunan and upper river points since it would appear that the occupation of Yochow by Communist forces endangers the principal avenue of exit from these areas. Please report what advice you have given or propose to give to Americans whose security is likely to be affected by recent Communist movements and whether you consider conditions such as would warrant advising a general withdrawal of Americans from these areas, provided such withdrawal can be carried out without incurring undue risks en route."

For the Minister:  
PERKINS

893.00/10934

*The Secretary of State to the Chargé in Japan (Neville)*

No. 77

WASHINGTON, July 7, 1930.

SIR: The Department has received from the Consul General at Hankow a report by naval radio<sup>55</sup> regarding the assistance rendered by Japanese naval vessels belonging to the First Squadron under the control of Vice Admiral Mitsumasa Yonai in evacuating American citizens from Hwangshihkang at the time of its capture by so-called "Communist" forces on June 13, 1930. It appears from the Consul General's report that one of the American refugees, Father Ferrary, who had been seized by bandits, was saved only by the prompt action of Lieutenant Commander T. Torii, in command of the Imperial Japanese gunboat *Toba*. The gunboat *Ataka*, Commander K.

<sup>54</sup> *Ante*, p. 13.

<sup>55</sup> Not printed.

Noguchi, and the gunboat, *Kotata*, Lieutenant Y. Wada, also rendered timely aid. The refugees were all finally collected on board the Nippon Yusen Kaisha vessel *Tsurugisan Maru*.

The Consul General further reports that he called personally on his Japanese colleague to express thanks to the naval authorities through him for the assistance rendered to the American citizens at Hwangshihkang and that he also expressed thanks in writing. The Department desires that the Embassy express to the Japanese Government in an appropriate manner the thanks of this Government for the effective aid rendered to American citizens by the Japanese naval officers above mentioned and by the master of the *Tsurugisan Maru*.

Very truly yours,

For the Secretary of State:  
FRANCIS WHITE

393.11/1189 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 8, 1930—4 p. m.  
[Received July 8—1:05 p. m.]

553. Legation's 548, July 7, 5 p. m. If the Department approves, the Legation proposes to address a note by telegraph to the Minister of Foreign Affairs inviting attention to the dangers to which American residents in the Yangtze Valley are exposed by reason of Communist activities and requesting that energetic measures be taken by the Central Government to protect American citizens from this menace.

For the Minister:  
PERKINS

893.00/10964 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 9, 1930—noon.  
[Received July 9—5:16 a. m.]

556. Department's 223, July 2, 5 p. m.

1. Following from American Consul at Hankow:

"July 8, 11 a. m. Your July 4, noon. This office wrote on June 28 and July 5 to the Hankow headquarters to thank Commander in Chief [*sic*] concerning incident and requesting punishment of guilty parties. No replies have been received. On July 7 I protested to General Ho Ying-chin who is in charge of the headquarters.

On May 4 the Consulate General circularized Americans in interior parts of H[upeh] and Southern Honan were and [*therein?*] concurring in the advice of H[upeh] Provincial Government and C. T.

Wang that they withdraw to Hankow in view of impending military operations. The Reverend Mr. Lee was one of those addressed.

I have telegraphed the Reverend Mr. Lee requesting plans of himself and Deaconess Sandland and will advise Legation of his reply."

2. A protest was despatched to the Minister for Foreign Affairs July 5, 1 p. m., in accordance with paragraph 2 of the Department's telegram under reference.

For the Minister:  
PERKINS

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393.11/1190 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 9, 1930—6 p. m.  
[Received July 9—1:20 p. m.]

558. Legation's 553, July 8, 4 p. m. Following from Commander of the Yangtze Patrol to vessels under his command:

"Bandits recently raiding Hwangshihkang and Yochow made special efforts to secure foreigners for ransom. Missionaries remaining in remote posts are exposing themselves to serious dangers. Inform consular offices, missionaries in your neighborhood."

For the Minister:  
PERKINS

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393.11/1189 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, July 9, 1930—7 p. m.

229. Your 553, July 8, 4 p. m.

1. Department approves the proposed note. Associated Press despatch dated Shanghai, July 8, indicates that Chekiang and Fukien Provinces are likewise menaced by bandits. Department suggests that the Legation examine consular reports regarding situation of American citizens in those provinces and give consideration to including reference to them in the note.

2. The Department also suggests that terms "Communist" or "Communitistic" be used sparingly in official communications to Chinese authorities and when used be put in quotes and be qualified by some such phrase as "so-called."

STIMSON

393.11/1207 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 10, 1930—5 p. m.  
[Received July 10—2:05 p. m.<sup>56</sup>]

561. Legation's 548, July 7, 5 p. m., and 558, July 9, 6 p. m.

1. Following from American Consul General at Hankow:

"July 9, 3 p. m. Your July 7, 5 p. m.

(1) Communists have retired from Yochow, their exact whereabouts are not definitely known, and Yochow and Chenglingki are garrisoned by National troops according to information today received from Admiral Craven who is at Chenglingki. Danger of cut-off [of] up-country communications is therefore averted.

(2) As Chungking and, to the best of my knowledge, Chengtu areas are quiet, it would seem that there is no necessity for Americans to withdraw therefrom. Hunan, Hupeh, Kiangsi and, perhaps to a lesser extent, Honan are bandit and communist infested and there is therefore constant danger to Americans living at interior points. This condition is not new and must be known to the Americans who choose to reside at such places. The Consulate General has consistently refused to issue travel certificates to Americans proceeding to points from which they could not be quickly and safely evacuated in case of danger.

(3) I shall, if the Legation approves such course, circularize Americans in those four provinces, stating that the Consulate General feels that they are exposing themselves to constant danger by residing in places from which they cannot be quickly and safely evacuated in case of necessity.

(4) I consider the greatest danger to Americans residing in the interior at present is capture by bandits or Communists for ransom purposes.

(5) It does not seem probable that under existing conditions Americans residing in the interior will respond to advice for a general withdrawal."

2. Legation is approving circular proposed by Hankow in paragraph 3. Repeated to Commander in Chief.

For the Minister:  
PERKINS

893.00/10967 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 10, 1930—6 p. m.  
[Received July 10—1:40 p. m.]

562. Legation's 556, July 9, noon. Following from American Consul General at Hankow:

"July 9, 5 p. m. My July 8, 11 a. m. Protest was made by letter as General Ho has not yet returned from Hunan.

<sup>56</sup> Telegram in two sections.

The following telegram from Dr. Skinsnes, Sinyangchow, present head of Lutheran United Mission:

'Suiping incident. Had no warning previous to incident. No attempt made to leave, Sandland now Kikungshan, Lee still Suiping, condition on field quiet, mission adopted no fast policy, missionaries free to follow advice and leave but adopted a watch and see policy.'

For the Minister:  
PERKINS

893.00/10969 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 12, 1930—4 p. m.  
[Received 10:55 p. m.]

567. Legation's 562, July 10, 6 p. m. Following from American Consul General at Hankow:

"July 11, 3 p. m. My July 9, 5 p. m. General Ho Ying-chin, who returned July 9 from Changsha, when interviewed today, professed ignorance of Suiping incident despite my written protest of July 7. He said that he would telegraph instructing the Suiping magistrate investigate the matter and severely punish the guilty parties."

For the Minister:  
PERKINS

893.00/10978 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 15, 1930—5 p. m.  
[Received 8:20 p. m.<sup>57</sup>]

577. Legation's 567, July 12, 4 p. m.

1. Following is portion of statement dated June 25th just received [from] Reverend Thomas Lee and transmitted to Legation in mail despatch of July 5th from American Consul General at Hankow:<sup>58</sup>

"I was then led up the street a way where there was more speech making on the part of the Shen Tangpu, punished [*punctuated*] with blows to my back and head with closed fists. I was marched through [the] principal streets with the Shen Tangpu leaders calling upon the people to see the incarnation of 'imperialism' and saying other things less complimentary. I was forced to go bareheaded so that the people might clearly see the 'yellow-haired dog.' Through the whole procession I was surrounded by student guards armed with poles, who also hung onto my arms and clothes in several places, not even permitting me to raise my hand to my head.

<sup>57</sup> Telegram in four sections.

<sup>58</sup> Despatch not printed.

In another group Deaconess Thone Sandland was being led along and subjected to the same treatment, while in a third group Mr. Kwo, the Chinese evangelist of this district, was subjected to much disgrace.

When I returned to the mission compound a large Pujo [*poster*] had been put up in the compound and vile things were written with chalk on doors and walls. Several locks had been wrenched or broken from doors. During the rest of the day the compound was constantly visited by younger students who seemed to delight in calling 'Yangtze [*yang*] koei tzi' 'yang ko'."

2. Following is portion of another mail despatch of the same date from the American Consul General at Hankow with regard to attacks upon foreigners in Szechuan :

"Respect for foreigners formerly so noticeable in China seems to be decreasing in Szechuan, and the following extract from the letter of a missionary located at Suifu is quoted as of possible interest.

'Attacks on foreigners are getting rather too thick for comfort. Three Missionaries have been attacked within 5 or 6 weeks. Mr. Bride and men captured by bandits and held for 17 days; a Kansu American missionary robbed and stabbed during his sojourn in Chungking, and now this attack on Doctor Stubbs.

Since the Chinese Government "abrogated extraterritoriality," four missionaries in Szechuan have been attacked, two American, one Canadian and one Englishman. Three of these were maliciously stabbed and the other was threatened with all sorts of torture in addition to the suffering he was subjected to. It does not look very favorable for the foreign governments to surrender to the so-called "special privileges" when the Chinese are acting this way.'

For the Minister :  
PERKINS

393.11/1265

*The Minister in China (Johnson) to the Secretary of State*

No. 326

PEIPING, July 16, 1930.  
[Received August 25.]

SIR: I have the honor to transmit herewith, for the Department's information, a copy of a letter, with its enclosures, dated Tsingtao, July 1, 1930, from Admiral Charles B. McVay, Jr.,<sup>59</sup> Commander-in-Chief of the United States Asiatic Fleet, in regard to the assistance rendered Americans by the Commanding Officer of H. B. M. S. *Cricket* and by the British Consul at Changsha on the occasion of the withdrawal from that city early in June of Central Government forces under the command of General Ho Chien. Likewise enclosed is a copy of my note of appreciation to the British Minister.<sup>59</sup>

I have [etc.]

For the Minister :  
MAHLON F. PERKINS  
Counselor of Legation

<sup>59</sup> Not printed.



393.11/1216 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 18, 1930—1 p. m.

[Received 2:25 p. m.]

587. Legation's 543, July 5, 5 p. m. Following from American Consul at Foochow:

"July 17, 4 p. m. Have arranged to proceed Yenping tomorrow morning with launch to bring down Americans from Lu territory. Both sides have promised safe conduct through fighting lines. No other way possible to effect their evacuation."

Commander in Chief informed.

For the Minister:

PERKINS

393.11/1217 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 19, 1930—1 p. m.

[Received July 19—12:50 p. m.]

593. Legation's 561, July 10, 3 [5] p. m. Following from American Consul General at Hankow:

"On July 16 American missionaries again evacuated Yochow and are on board gunboat and Socony's *Mei Ping* at Chenglingki.

Hankow situation quiet.

Hunan is now entirely under Ho Chien who commands four divisions of reduced strength."

For the Minister:

PERKINS

893.00/11010 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 21, 1930—5 p. m.

[Received July 21—9:15 a. m.]

600. Following from American Consul [General] at Shanghai:

"July 15, 3 p. m. In vicinity of Soochow, Standard Oil Company launch *Mei Foo II* was held up by bandits on July 9 at 6 p. m. and all that was worth while was looted. One foreigner received slight injury but was permitted to continue. Chinese authorities have been requested to make investigation and punish those guilty of the offense and to take such precautionary measures as are necessary to protect life in this large commercial district. This incident is reported to the Legation as illustrating degree of protection which is afforded by National Government in the district where it has undisputed control. The bandits threaten that should the incident be given publicity

through the press all Standard Oil Company boats will be captured when plying between Shanghai and Soochow."

For the Minister:  
PERKINS

811.3393/88

*The Secretary of State to the Minister in China (Johnson)*

No. 185

WASHINGTON, July 21, 1930.

SIR: The Department has received the Legation's despatches No. 228 of May 29, 1930, No. 231 of May 31, 1930, and No. 233 of May 31, 1930,<sup>60</sup> in regard to the desire of the Chinese authorities that the American Consuls at Tsingtao and Tientsin provide them with advance notice of visits of American naval vessels.

Stipulations of treaties now in force between the United States and China authorize the national vessels of the United States to visit the ports of China (Treaty of 1858, Article IX), and the Department believes that in the enjoyment of this right it is not necessary for the commanders of vessels to obtain from the Chinese authorities in advance permission to make such visits. The Department, nevertheless, concurs with the view of the Legation as set forth in the Legation's instruction of May 9, 1930, to the American Consul at Tsingtao that it is permissible for the American Consul at a port to inform the local authorities, in advance, of the arrival of American men-of-war. American Consuls should, in conveying such advance information, avoid any implication that the right of American naval vessels to visit such ports or to perform their other duties as authorized by treaty is dependent for its exercise on the permission of the Chinese authorities.

Very truly yours,

For the Secretary of State:  
FRANCIS WHITE

393.11/1222 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 25, 1930—5 p. m.  
[Received July 25—6:50 a. m.]

614. Legation's 613, July 25, 11 a. m.<sup>61</sup> Following from American Consul at Foochow:

"July 24, 11 a. m. Returned to Foochow 11 p. m., July 24th, with all Americans in Lu territory except: at Chungan, Messrs. Cassidy and Grace who are in area now surrounded by local Communists (Lu personally assured me he would escort them to a place of safety at first

<sup>60</sup> None printed.

<sup>61</sup> Not printed.

opportunity. I do not believe he will as he is concentrating all his forces for another attack on Foochow.) ; at Kienningfu, Curran and Werner who are remaining to assist Cassidy and Grace; at Shaowu, Doctors Bliss and Judd who consider it safer to remain there than try to come out through bandit-infested areas; at Yenping, Dr. Skinner and wife who could not leave as his hospital is crowded with wounded soldiers, Miss Glamour Burner [*Glassburner*] who refused to leave; at Lekdu near Mintsing, Dr. Ruth Herway [*Hemenway*] too ill to travel. Yenping and Mintsing in no immediate danger. All other Americans now safe at Foochow."

For the Minister:  
PERKINS

893.00/11017 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 28, 1930—1 p. m.  
[Received July 28—7:42 a. m.]

625. Legation's 593, July 10 [19], 1 p. m. Following from American Consul at Hankow:

"July 27, 10 p. m. Reports received today that (1) Nanchang taken by Reds under Mao, (2) that Changsha imminently threatened by Communists under Peng, (3) that Communists are within 15 miles of Kiukiang.

The *Palos*, a British and a Japanese gunboat are at Changsha, and *Monocacy* at Kiukiang. Naval authorities are prepared to evacuate foreigners at Changsha."

For the Minister:  
PERKINS

393.11/1223 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 29, 1930—1 p. m.  
[Received July 29—10:25 a. m.]

627. Legation's 625, July 28, 1 p. m. Following from American Consul General at Hankow:

"July 28, 11 a. m. Latest report from Changsha states that all Americans are safe on board *Palos* except three who refused protection. British and Japanese gunboats participated in evacuation and I believe all foreigners are safe who accepted protection. *Palos* will remain Changsha unless situation grows worse. Communists were momentarily expected to take Changsha, Government troops having departed toward Changteh."

"July 28, 5 p. m. Changsha now in full control of Reds under Peng Teh-hwai, about 10,000. *Guam* leaves for Chenglingki this

afternoon. I wrote Captain Moore of *Guam* stating Hankow should have destroyer or other naval vessel for the protection of American lives and property here and to insure communication and asked him to communicate substance my letter to Admiral Craven.

There are perhaps 20 Americans and over 200 foreigners at Kuling and I believe continued presence *Monocacy* at Kiukiang is advisable. Hankow quiet."

Commander in Chief informed.

For the Minister:  
PERKINS

893.00/11026 : Telegram

*The Consul at Hankow (Butrick) to the Secretary of State*

HANKOW, July 29, 1930—10 a. m.  
[Received July 30—5:58 a. m.]

62. Latest news from Changsha is that:

1. About 10,000 Communists under Peng Teh-hwai who took city on July 28 are looting city and burning all public buildings.
2. They are crossing to island where they are expected to loot, burn homes of foreigners and British Consulate.
3. Their occupancy of Changsha will probably not last more than 1 week judging from their previous activity at Yochow and other places.

All Americans safely evacuated and on board naval vessels 5 miles below Changsha, except William Lingle and Allen Cameron who refused to leave. Father Baima, Italian, captured by Communists, is only foreigner known to be in their hands.

The following is an estimate in United States currency of American property in Changsha. Real Estate: Yale-in-China, 500,000; Presbyterian Church, 350,000; Seventh Day Adventists, 15,000. Stocks: National Aniline, 10,000; L. E. Gale, 30,000; Singer Sewing Machine, 2,000; Liggett and Myers, 2,000; Standard Oil Company of New York installation below Changsha and stocks, 1,500,000.

Sent to the Department and Peiping.

BUTRICK

393.11/1224 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 29, 1930—4 p. m.  
[Received July 29—10:40 a. m.<sup>62</sup>]

628. My 627, July 29, 1 p. m. Following from U. S. S. *Palos*:

"1028. Departed from Changsha as presence here could neither protect property in view overwhelming numbers Communists and also

<sup>62</sup> Telegram in three sections.

rapidly falling watermark. *Aphis*, *Futami*, *Teal*<sup>63</sup> also departed, all anchored for time at 5 miles down river clear of bar. This ship was struck once by rifle fire last night near bridge, no damage. All public buildings and Yamens in Changsha being fired and Communists crossing to island where expect British Consulate and other foreign residences to be burned tonight. For greater comfort transferred and will leave women and children, Italian priests, et cetera, on H.M.S. *Aphis*. I have on board grand total nine. Am escorting two Socony launches with native staff, all foreigners persuaded to delay [*leave?*] except two American male missionaries. Father Baima of Italian Mission captured today by bandits when he made last-minute effort get out after refusing previously; other Italians safe on *Aphis* at present. Consider city will remain in hands of Communists and be reinforced by recruitment for period at least week, 10 days. Do not feel Ho Chien can retake or will reenter until they leave. Several officials including Ho Chien's brother reported brutally beheaded today. About ten thousand Chinese have fled to west and north. Got all Socony, and Butterfield and Swire,<sup>64</sup> Jardine,<sup>65</sup> N. K. [Y.] K.;<sup>66</sup> got most of their floating equipment except hulls out today and down river, some at A. P. C.,<sup>67</sup> some further. 1830."

"1029. City still burning, also widespread looting. Understand small detachments Communists in civilian clothing are pursuing remnants Ho Chien's army which retraced westward in propaganda work. Due to low river level relief of Changsha will require land marching. To date Yale Hospital, most [*post?*] office, not destroyed. Socony and A. P. C. installations not yet directly threatened but expected neither defensively [*sic*] other than evacuate personnel. 0248."

For the Minister:

PERKINS

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393.11/1225: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 29, 1930—6 p. m.

[Received July 29—10:15 a. m.]

630. Following has been received from the American Consul, Tsinanfu:

"July 29, 10 a. m. The following telegram has been received from leading American missionary at Taian: 'Taian citizens and Americans request you use influence Nanking stop aeroplane bombing. Hansen'

There are only four Americans in Taian now, but they and American mission property valued at 250,000 gold are endangered by these

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<sup>63</sup> British, Japanese, British, respectively.

<sup>64</sup> Messrs. Butterfield & Swire, agents for China Navigation Co., Ltd. (British).

<sup>65</sup> Jardine, Matheson & Co., Ltd. (British).

<sup>66</sup> Nippon Yusen Kaisha (Japanese).

<sup>67</sup> Asiatic Petroleum Co. (British).

indiscriminate bombing raids not to mention British and other foreign life and property as well as Chinese.

Respectfully request that appropriate representations be made to Nanking regarding this matter."

The Legation has replied as follows:

"July 29, 5 p. m. Your July 29, 10 a. m. The following telegram has been sent to the American Consul at Nanking:

'July 29, 5 p. m. Please transmit the following to the Ministry of Foreign Affairs: "The American Legation has received a telegram from the American Consul at Tsinanfu to the effect that American citizens and property in Taian, Shantung, are endangered by the bombing raids conducted by the forces of the Government at Nanking. Efforts are being made to have the American citizens at Taian withdraw. However, the American Government expects that every precaution will be taken to avoid loss and injury to American lives and property, and should any losses or injury be suffered by American citizens at Taian the American Government reserves all rights in the matter." Repeated to Tsinanfu. Department has been informed.'

You should endeavor to have the Americans at Taian withdraw to a place of safety."

For the Minister:  
PERKINS

393.11/1232: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 30, 1930—1 p. m.  
[Received 1:15 p. m.<sup>63</sup>]

632. Legation's 561, July 10, 5 p. m.

1. Following from mail despatch July 19, from American Consul at Hankow:

"I have the honor to inform the Legation that a circular letter, a copy of which is attached, was mailed on July 11th, 1930, to all adult American citizens and to the heads of American families residing at all points in these four provinces, with the exception of the cities of Hankow, Wuchang and Hanyang. In this manner 239 American citizens were directly notified by the circular, while 180 wives and children were indirectly notified, making total number of 419 American citizens who have been warned that it is not considered advisable for them to live in the remote sections of Hunan, Honan, Hupeh and Kiangsi Provinces."

2. Following telegram is being sent in reply:

"July 30, noon. The Legation suggests that you again circularize American citizens in Hupeh, Hunan, Honan and Kiangsi, calling attention to the increasing severity of bandit and communist activities at Changsha and other places and urgently warning them of the extreme danger of remaining at exposed points, and of the necessity of

<sup>63</sup> Telegram in two sections.

withdrawing to places where they can be adequately protected. Please reply by telegraph concerning the situation at Kuling and whether Americans there making plans to withdraw."

Legation's telegram to Hankow repeated to the Commander in Chief.

For the Minister:

PERKINS

893.00/11028: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 30, 1930—6 p. m.

[Received 8:55 p. m.]

637. Legation's 628, July 24 [29], 4 p. m. Following from American Consul at Hankow:

"July 29, noon. Capture of Changsha was apparently accomplished by defection of part of Government troops and retreat of others. That Chinese official inquiry in Changsha should have been unaware of nearby presence of Communists in such numbers makes safety of Wuhan seem precarious.

To ascertain strength of Hankow garrison and Government plans regarding Changsha I have today tried to make an appointment with Ho Ying-chin, or his aide, Colonel Tan, both of whom are 'out'.

In light of surprise nature of attacks on Yochow and Changsha and doubtful strength of Wuhan defenses I deem it only prudent to have an American destroyer or large unit stationed at Hankow until conditions are more secure.

Guam is remaining in Hankow. Panay ordered from Ichang to Chenglingki."

Commander in Chief informed.

For the Minister:

PERKINS

893.00/11029: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 31, 1930—noon.

[Received July 31—5:52 a. m.]

638. Legation's 628, July 29, 4 p. m. Following from the U. S. S. Palos:

"1029. Communists have obtained from city merchants and banks \$1,000,000 payable upon completion burning foreign-owned properties which latter is being done systematically after first giving contents to rabble coolies, et cetera, none of whom are being molested. Information from local Chinese does not indicate particular resentment or objection to Communists from any except well to do. Believe

Nanking Government should have some definite military assistance this area, else fear future strength of Communists will be greatly enhanced materially and morally. Threatened destruction of city if demands not met. However no time limit. No information relative Hunan troops supposedly returning from Kwangsi border or relative Ho Chien's movements. Expect remain tomorrow also. Effective upon [*sic*] action relative military relief may result in checking probably eventual destruction extensive Socony and A. P. C. installations. Five feet water still exists far east A. P. C., interference observed between A. P. C. and Chenglingki. 1610."

"1029. Communists apparently not in hurry to leave city. Reliably informed [by] Chinese runners, main force seven to eight thousand rifles encamped 2 to 3 miles east of city. Approximately one thousand rifles in city. Method of operation very systematic, well directed as follows: One or more riflemen go to house selected for destruction accompanied by four or five unarmed Communists, ex-spears<sup>99</sup> or local sympathizers and ex-coolies; riflemen [talk?] with occupant and bystander asseverating nonmilitaristic motives while others remove furniture, et cetera, place in street, giving [to?] and helping to [*the?*] rabble, riflemen meantime saying he [*they*] will not interfere people's will distribute excess property. Later, houses burned in such manner by [*but?*] isolated so that adjacent houses and 'inoffensive' persons not seriously damaged. City divided forty or fifty wards each in charge local ex-coolies, official Soviet form local government. About three to four thousand unarmed Communists, mostly local, used in this manner permitted enter [and] leave city, but this order cannot be enforced at night. No injury, rather protection, water, electricity, other facilities. Reward \$200 offered [for] whereabouts any foreigners, Chinese officials or staff [of] foreign firm. Island isolated from local persons so far as possible prevent chance surprise by any one. Socony, Texas offices looted today, also Japanese Consulate, Hospital. No information German firms in south of city. Estimate total to date sixty to seventy. People, furniture, effects still fleeing as possible. So far only four foreigners not evacuated. Mr. Cameron, American conscientious objector evacuation [*sic*], one Italian priest captured, two German miners [*mining?*] engineers, Mr. Pusch and Matskowsky. Italian Mission reported undamaged, stating religious give money, amount unknown. Airplanes reconnaissance would be most valuable, indicate signs, movements main force, view valuable foreign properties still intact. Water level fell a little today, may necessitate departure Wednesday further down river and out of sight of city. 2130."

For the Minister:  
PERKINS

<sup>99</sup> Former "Red Spear" Society members.



893.00/11032 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 31, 1930—4 p. m.

[Received August 1—7 a. m.]

640. Legation's 638, July 31, noon.

1. Following note has been despatched by priority radio to the Minister for Foreign Affairs at Nanking:

"I have the honor to inform Your Excellency that advices received by the Legation from American naval vessels in the vicinity of Changsha indicate that the bandit or so-called communist forces reported as in possession of that city are now engaged in the systematic looting and burning of foreign properties. The offices of the Standard Oil Company and other [*of the?*] auxiliary Texas Oil Company are said to have been already looted.

It is suggested that prompt and effective action for the relief of the city may result in checking the otherwise probable destruction of many of the numerous American missionary and educational institutions as well as of the properties of American commercial firms. As Your Excellency is aware, American interests in Changsha are extensive in character and are widely scattered throughout the city, thus calling for the utmost vigilance in order to secure their effective protection in circumstances such as are reported now existing there.

The Legation is also informed that rewards are being offered for information as to the whereabouts of foreigners and of members of the Chinese staffs of foreign firms. According to present reports, however, all American citizens have safely withdrawn with the exception of two American missionaries, Mr. Allen Cameron, of the Hunan Faith Mission, Mr. William Lingle, of the Presbyterian Mission, whose fate are unknown. The Legation asks that the Chinese Government endeavor to ascertain the whereabouts of Mr. Cameron and Mr. Lingle and afford them adequate protection at the earliest possible moment.

The American Government must reserve all rights with respect to such losses or injuries as American citizens have already suffered or may suffer by reason of the disturbances above described. I avail, etc."

2. American Consul at Hankow is being instructed to make similar representations to highest local authorities concerned. Commander in Chief informed.

For the Minister:

PERKINS

893.00/11030 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 31, 1930—5 p. m.  
 [Received August 1—7 a. m.<sup>70</sup>]

641. Legation's 638, July 31, noon. Following from *Palos* at Changsha to Commander in Chief:

"Believe most Communists have left city. At sixteen hundred stood up to examine situation; when opposite city was fired on by Communists with rifles and machine guns. As could not safely turn around, returned fire after about 12 shots and several hits. Steamed to south of Island, turned around and returned to station of Socony. About 100 rifle and 10 machine guns used on shore believed rear guard of Communists. Known killed Communists about 30, injured unknown. Slight damage to shacks on shore where some Communists took position with machine guns and rifles, engagement port and starboard guns one hour total. *Palos* no one seriously hurt, about 5 flesh wounds scattering fragments. *Palos* hit about 100 times, exact number later; practically all steel plate O. K.; range from 1,000 to 300 feet. Do not consider another gunboat necessary. Informed Italian Father Baima now safe. Foreign residences on island, except Japanese Club, apparently intact. Jardine hulk burned last night, Japanese Consulate destroyed. Practically all gunfire by Communists silenced; used 3-inch as well as small arms, ammunitions expended later."

For the Minister:  
 PERKINS

893.00/11034 : Telegram

*The Chargé in Japan (Neville) to the Secretary of State*

TOKYO, August 1, 1930—4 p. m.  
 [Received August 1—5:55 a. m.]

128. I was informed orally at the Foreign Office today that the Japanese Chargé d'Affaires, who is or was at Shanghai, had been instructed to approach the Nanking Government and to state that, while reserving all questions in regard to the recent damage at Changsha, the Japanese Government was prepared to initiate common action with the Nationalist Government to prevent the capture and probable looting of Hankow by the rebel forces now presumably converging on that point. The Japanese Government has ordered a force of blue-jackets amounting to some 200 or so to proceed to Hankow from Shanghai to reenforce the small number of men available from the Japanese gunboats in that region. The Japanese consider the protection of Hankow of the greatest immediate importance as they have some 2,000 or more nationals there whom they have no means of

<sup>70</sup> Telegram in two sections.



The Japanese as a precautionary measure are constructing barbed wire entanglements around the Japanese concession here.

Two hundred foreigners who were spending the summer at Kuling are being evacuated immediately.

The Red bandits who captured Siaokan, north of Hankow, have destroyed most of the railway bridges in its vicinity."

JOHNSON

893.00/11039 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 1, 1930—6 p. m.

[Received August 1—5 p. m.<sup>71</sup>]

649. 1. Following from American Consul at Hankow:

"July 31, 1 p. m. Reports believed to be authentic that Laohokow taken by bandits on July 30. Siaokan is also in the hands of bandits. I interviewed Colonel Tan today. He stated that a division from South Hupeh and two divisions from South Hunan were hastening to aid of Changsha. He does not consider bandit depredations Laohokow and Siaokan serious and states a regiment has been detailed to maintain communication on Kinhan line. He reaffirmed confidence in local situation and Kinhan front. While I have considerable faith in Colonel Tan himself, I still believe augmentation of American naval forces here advisable at once as stated heretofore.

*Palos* were [went] up to Changsha 6 this morning and was fired upon by Communists who hit ship about 100 times, inflicting 5 slight flesh wounds on personnel. *Palos* returned fire with small arms and 3-inch, killing about 30 Communists and wounding others. Indications that Communists are withdrawing from Changsha with apparent destination Pingsiang. *Palos* returned 7 a. m. to Standard Oil Company, inspector boarded below Changsha.

I have not made representations concerning Changsha to Hankow headquarters as Legation may wish to do so direct to Nanking.

It is my intention to send a representative of Consulate to Changsha as soon as conditions permit to prepare a detailed report of the affair, if the Legation approves."

2. The Legation is approving despatch of representative to Changsha as soon as conditions make it prudent.

JOHNSON

893.00/11032 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, August 2, 1930—1 p. m.

259. Your 640 of July 31, 4 p. m.

1. Department approves action taken.

2. Japanese Embassy has inquired regarding action taken by this Government, and Department has read to Counselor most of text,

<sup>71</sup> Telegram in two sections.



three gunboats; Japanese, one cruiser, three gunboats; American, one gunboat. Italian gunboat will arrive tomorrow.

On July 31st, through *Monocacy* at Kiukiang, I warned Americans to withdraw from Kuling at once.

Jordan,<sup>72</sup> who resigned effective August 3, will remain for a week or 10 days at Nanking."

JOHNSON

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893.00/11055 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 4, 1930—11 a. m.

[Received August 4—4:15 a. m.]

663. Following from American Consul at Nanking:

"August 3, 10 a. m. The following telegram, dated August 2, is transmitted to the Legation at the request of the Ministry of Foreign Affairs:

'A telegram has been received from Chairman Lu of the Kiangsi Provincial Government stating that Brigadier General Ma withdraw from Kanchow, and requesting that foreigners be advised immediately to leave Kanchow in order to avoid danger.

You are requested immediately to instruct your nationals to leave Kanchow temporarily; otherwise, if untoward incidents occur the Chinese Government will assume no responsibility.'

Repeated to Hankow".

JOHNSON

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893.00/11058 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 4, 1930—1 p. m.

[Received August 4—4:15 a. m.]

665. Legation's 661, August 3, 5 p. m. Following from American Consul at Hankow:

"August 2, 11 a. m. Your July 31, 9 p. m. received today. I have today written Ho Ying-chin as suggested by the Legation.

Most of Hankow foreign banks are now requiring clients to cover with war-risk insurance cargo on all this Consulate General's overdrafts [*sic*].

Chinese have begun to move into Hankow from outlying districts to the north.

Yesterday I sent a confidential circular to Americans in Wuhan reminding them that evacuation plans with slight modifications conveyed to them in April, 1929, were still in force.

On July 29, Public Safety Bureau at Kiukiang advised foreigners to leave Kuling within 24 hours. Local officials at Kiukiang informed certain Americans that notice was sent in obedience to orders from

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<sup>72</sup> Russell B. Jordan, Vice Consul at Hankow.



situation easier. Admiral [Craven] arrived last night. Three American gunboats in Hankow."

JOHNSON

893.00/11067 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, August 6, 1930—2 p. m.

264. Reference Department's 259, August 2, 1 p. m., and 260, August 2, 2 p. m. British Ambassador called August 5 and presented an *aide-mémoire*<sup>75</sup> in which apprehension is expressed that communists may seize Hankow and statement is made that if Chinese Government is not able to afford adequate protection, British Government proposes to utilize troops from Shanghai in addition to naval landing parties for that purpose and that British Government would be glad to learn whether it can count on cooperation of American Government in the action which it proposes to take and that it is addressing similar inquiries in Paris and Tokyo to French and Japanese Governments.

Department has informed British Ambassador that it has not regarded the situation as sufficiently critical as yet to warrant considering need for a definite plan for international cooperation; that we should have no thought in disapproval of troop movements by other Governments for protection of their nationals; that our officers in China have general orders under which they exercise discretion and that they could in a critical situation land forces; that they have what they apparently consider sufficient naval forces at Hankow; and that they have not intimated that there is need of special measures or new instructions. The British Ambassador stated that the danger which his Government apparently most feared was an uprising in Hankow itself. The reply was made that this Government was alive to that danger.

French Embassy has informed Department that British Embassy, Paris, made similar approach to French Foreign Office. Department's view of situation was outlined to Counselor as above.

Department requests your opinion (a) whether special arrangement for international cooperation is in any way called for, and (b) whether any special instructions are needed. Department wishes also to have estimate of Consulate General, Hankow, with regard to (1) danger of Hankow being attacked from outside, (2) danger of Chinese uprising inside Hankow.

CARR

<sup>75</sup> Dated August 4; not printed.



893.00/11064 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 6, 1930—5 p. m.

[Received August 6—1:55 p. m.]

673. Legation's 667, August 4, 5 p. m. Following from Commander in Chief, August 4th:

"The U. S. S. *Palos* restates [reports?] 2 Chinese, 1 British and 1 Japanese gunboat engaged with Communists at Changsha yesterday. This morning a number of Ho Chien troops returned to southern end of city. There was some firing throughout the night. There are 300 Japanese present at northern end of city.

The Commander, Yangtze Patrol, now anchored off the Standard Oil Company, will take no part in military operations for the recapture of troops [city?]. The U. S. S. *Guam* is proceeding with stores and coal."

JOHNSON

893.00/11071 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 8, 1930—5 p. m.

[Received 9:02 p. m.]

682. Following from Hankow:

"August 7, 5 p. m. Despite augmented garrison there is much uneasiness in Hankow. Emergency martial law imposed at 8 p. m. yesterday, instead of 12 midnight as usual.

Am informed that 150 Japanese marines have arrived at Hankow and that more are to come from Shanghai and that 130 British soldiers are either en route or ready to depart from Shanghai for Hankow.

Changsha reported quiet and I shall send Clark <sup>76</sup> sometime within few days if conditions remain favorable."

JOHNSON

893.00/11076 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 8, 1930—7 p. m.

[Received August 11—8:05 p. m.<sup>77</sup>]

684. Department's 264, August 6, 6 [2] p. m., last paragraph.

1. (a) I perceive no immediate necessity for any special arrangement for international cooperation at Hankow. Department will have been informed by Tokyo's 128, August 1, 4 p. m., of steps which Japanese Government has for its own part considered necessary to take at Hankow. My telegram No. 682, August 5 [8], 5 p. m., re-

<sup>76</sup> Lewis Clark, Consul at Hankow.

<sup>77</sup> Telegram in three sections.

peating Hankow's August 7, 5 p. m., will inform the Department of progress of the Japanese plans. Hankow's August 7, 5 p. m., also reports despatch of something over 100 British soldiers to Hankow for protection purposes. Commander of Yangtze Patrol in his telegram 0006-0930 to Commander in Chief intimates that British plan to reoccupy old British concession at Hankow and to defend same in case of uprising.

Personally I would not be surprised if the British entertained some such plan as I heard it gossiped about when in Hankow sometime ago. Because of above facts I doubt wisdom of formally entering any plan of international cooperation.

(b) I do not believe that any special instructions are needed at this time. Hankow informed Legation in a telegram dated August 4, 4 p. m., that all consuls at Hankow had formulated evacuation plans. On August 5, 8 p. m., the American Consul telegraphed that situation was easier, that Admiral Craven was there and that three American gunboats were present at Hankow (Legation's 670, August 6, noon). Existing instructions admit complete cooperation with other defensive forces in an emergency where all lives are in danger.

In my opinion instructions at this time would give significance to our action beyond anything we might intend.

2. Legation is immediately requesting Hankow for estimate regarding (1) danger of Hankow being attacked from outside forces, (2) danger of Chinese uprising inside Hankow. Admiral Craven in his 0006-0930 to the Commander in Chief indicated that situation at Hankow was much improved with no apprehension of Communists. American Consul at Hankow in his telegram of August 5, 8 p. m. indicated situation at Hankow easier although on August 7, 5 p. m. he indicated that there is [are] unfortunate circumstances in Hankow with emergency martial law in effect.

JOHNSON

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893.00/11075 : Telegram

*The Consul at Hankow (Butrick) to the Secretary of State*

HANKOW, August 10, 1930—noon.

[Received 11:38 p. m.]

73. American naval information from Changsha now indicates American mission property considerably damaged, business interests suffering less in comparison. Captain of *Palos* states that the self-defense firing of *Palos* on July 31 is credited by foreign and Chinese businessmen as the [act?] which saved the island and stopped general looting and destruction in the city proper.

Clark will proceed to Changsha tomorrow. Sent to the Department and the Legation at Peiping.

BUTRICK

393.11/1247 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, August 11, 1930—1 p. m.

[Received 8:08 p. m.]

Following telegram just received from Father McGillicuddy, Shiuchow, northern Kwangtung:

"Eight Sisters [of] Charity, Bishop Dunont,<sup>78</sup> Father McGillicuddy, Corbett, McClinont arrived at Shiuchow. Bishop O'Shea and other foreigners in Kanchow [in] imminent danger because Kiangsi Government orders evacuation troops. Advised Nanking, Hankow July 29th. No response. Wireless refuses transmit from Kanchow. Reds surround city."

Have advised priests to leave Shiuchow for Canton or Hong Kong and am conferring with local authorities in regard to Bishop O'Shea and foreigners at Kanchow but fear little can be done at this late date. I am surprised Bishop O'Shea persisted in remaining in Kanchow in spite of danger and Department's advice to leave.

The Department, Legation and Hankow informed.

JENKINS

893.00/11079 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 13, 1930—6 p. m.

[Received August 13—5:48 p. m.<sup>79</sup>]

694. Your 264, August 6, 6 [2] p. m.

1. Following from Hankow:

"August 11, 4 p. m. My estimate of the Hankow situation is as follows:

While definite and reliable information concerning Communists' movements and plans is, as may well be understood, difficult and almost impossible to obtain, it has been stated that there are numerous Communists within the city and they are undoubtedly in communication with groups operating outside. It does not seem probable that such groups within the city are well armed. Past experience—Yochow, Changsha, et cetera—would indicate that an interior communist uprising will not occur unless outside communist aid can be availed of at once.

Communists outside the city are on practically all sides in small groups at varying distances from Wuhan. Their military strength is small unless they can arrange for joint operations in connection with some of the so-called Red armies mentioned in the Consulate General's despatch No. 1000 [1004?] of June 30th.<sup>80</sup>

<sup>78</sup> French citizen.

<sup>79</sup> Telegram in six sections.

<sup>80</sup> Not printed.

The forces which operated against Changsha are believed to now be in Liuyang and the vicinity of Pingsiang. There is evidence to believe that the Reds operating in central China have a plan of operation which contemplates the capture of Wuhan or a part of it. It does not seem that they can operate against Hankow within a short time although indirect information from Japanese sources indicates that the Japanese anticipate trouble in this area before August 16th.

There is in the present situation no substantial guaranty of security. I have reason to believe that remnants of Hu Tsung-tu's Hupeh troops (possibly 4,000) still exist in western Hupeh. I think many Hankow Chinese would welcome their entry to the city. They would not have to be Communists however and would probably not unite with the Communist troops although they might ally themselves with the Northern Coalition if occasion offered. They are not active now.

I view with concern the garrisoning of Ichang and Shasi with Szechuan troops as there exists in it the danger of Liu Hsiang's influence in Szechuan being weakened with the possibility that his military rivals may cause trouble in Szechuan. Liu Hsiang is understood now to be confronted with a shortage of revenues.

Although crops are reported good on rivers of central China, in many sections they are being harvested by Communists who allow the farmers only 10 percent thereof. There is no stability in the interior of the central provinces and many persons predict that Changsha will be retaken by the Reds. However the war situation may go, the financial difficulties of the governing Chinese are bound to be great soon and the release of soldiers from the fronts at the cessation of hostilities seems fraught with dire possibilities. It would seem that as far as the Yangtze Valley and a large part of the territory within the consular district are concerned, the present outlook for the fall and winter is distinctly unfavorable. Local situation is as follows:

- (1) Wuhan garrison can be estimated at maximum of 10,000.
- (2) General Ho Ying-chin has been ill, possibly from overwork.
- (3) Numerous military conferences have been held recently.
- (4) Forty Chinese have been executed during past week. Many of the forty beheadings have been staged on the streets of the former concessions and bodies allowed to remain several hours before removal.
- (5) The police in Hankow have been disarmed either to give their rifles to soldiers or because of a fear that they might turn over to Communists or Northerners.
- (6) It is rumored that troops in Wuhan have not been paid for several months, which I doubt, but their reliability may be questionable.
- (7) The Kinhan line is frequently being broken by bandits despite military's efforts to keep it open. In view of Legation's July 30, 5 p. m., this may be a precaution to insure safe retreat although there are no local indications of reverses on the Kinhan line.
- (8) On August 8, Admiral Craven and I made an extensive tour of the native city of Hankow where conditions seemed practically normal. We saw in all about 50 soldiers, several of whom were doing picket duty at waterworks.
- (9) Chinese business, while dull, seems otherwise normal.
- (10) Plans for the concentration of American citizens residing in Wuhan have been elaborated on in conjunction with Admiral Craven.

I believe all Americans could be assembled at protected concentration points in a few hours.

(11) Japanese and French are prepared to defend their concessions. British are prepared to defend large portion of their concession at Chungkung,<sup>81</sup> which will afford protection to National City Bank which has 12 short tons of silver in its vaults. Japanese defense plan includes Standard Oil Company number 1 installation. Americans in 3 defense areas mentioned will assemble there instead of American Consulate if time and conditions will not permit them to reach Consulate.

(12) British intention to defend former concession may be due to fear that British business cannot well withstand another evacuation and its possible attendant looting and destruction with the consequent substitution of claims for actual values.

Copy to Admiral Craven, Nanking, Shanghai."

2. Legation's July 30, 5 p. m., to Hankow, referred to, is to the effect that Marshal Feng had wired Yen's diplomatic representative in Peking that since Generals Yuen Wei-chun and Hu Tsung-an had gone over to the Kuominchun, Feng expected at that time to occupy Hankow without fighting within 10 days.

JOHNSON

393.11/1254 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, August 14, 1930—11 a. m.

[Received August 14—9:15 a. m.]

Referring to my telegram of August 11, 1 p. m., Catholic priests and Sisters have arrived safely in Canton from Shiuchow. Priests say their anxiety as to Bishop O'Shea and other foreigners still in Kanchow is due to the fact that Kanchow garrison troops have been ordered north, which would leave city entirely at the mercy of Communists. Moreover, General says foreigners cannot safely accompany troops who will have to fight most of the way.

According to the priests, National Government promised protection and Bishop insists upon remaining in Kanchow until authorities admit to him that they are no longer able to give protection. I drew attention of the priests to the fact that the Department had already urged Bishop and other Americans to leave Kanchow and said I frankly could not understand Bishop's position.

Cantonese authorities have telegraphed Ho Ying-chin and other officials urging that troops remain at Kanchow, but no replies have yet been received. Cantonese are also endeavoring to obtain information by telegraph regarding present conditions in Kanchow.

Legation, Department, Hankow informed.

JENKINS

<sup>81</sup> Presumably former British Concession in Hankow.

393.11/1253 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 14, 1930—noon.  
[Received August 14—9:20 a. m.]

695. Legation's 663, August 4, 11 a. m., and Canton's August 11, 1 p. m. Following from the American Consul at Hankow:

"August 13, 3 p. m. Canton's August 11, 1 p. m., regarding O'Shea and other foreigners.

I respectfully suggest that O'Shea and other foreigners could withdraw with National troops and that the Legation may wish to request Ministry of Foreign Affairs to thus or otherwise afford them safe conduct to places of security."

Following telegram has been sent American Consul at Nanking:

"August 14, noon. Your August 3, 10 a. m. Please deliver following to the Ministry of Foreign Affairs:

'I have the honor to request that if the forces of Your Excellency's Government have not yet withdrawn from Kanchow, Kiangsi, the American citizens and residents be given safe conduct and permitted to accompany the troops out. An early reply is requested.'

Hankow and Canton informed.

JOHNSON

893.00/11076 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

[Paraphrase]

WASHINGTON, August 15, 1930—11 a. m.

272. Your 684, August 8, 7 p. m., and 694, August 13, 6 p. m.

(1) Your telegrams indicate that evacuation plans have been formulated by all the consuls at Hankow and plans have been made to concentrate American citizens who reside in the Wuhan cities.

(2) After a careful consideration of all information and reports which have reached the Department regarding recent developments, the Department has seen fit to rely wholly upon the judgment of the Legation in China, of the Consulate General at Hankow, and of the naval officers in command for the disposal of American forces and for the measures in general to protect American lives and interests at Hankow. Special instructions have not been sought by the Legation, and the Department has seen no reason to offer such.

(3) However, concerning the objectives to be sought in regard to protection plans, the Department desires to be informed as to whether the plans in force now as applying to the Hankow situation contemplate merely "evacuation" of American citizens in case of an acute crisis or the participation of American forces in the task of policing

and perhaps even in the task of preventing "Communist" armed forces intruding from without. In the Department's view, there is a substantial difference between the present situation and that which existed during the winter of 1926-1927. Hankow at that time was a military objective of Nationalist troops which were organized and fighting as a body under an organized authority declaring itself to be the rightful Government of the Chinese Republic. The general position then taken by the United States Government was that American armed forces should not be used to resist an organized attack by Chinese armed forces. At the present time the menace is from lawless action inside the city or from attack outside by predatory and irresponsible armed forces.

(4) The Department feels warranted, in the present situation, to suggest that it is not necessary to restrict measures which are planned to protect American lives and property to steps required to evacuate American citizens; that, in case the work of policing is undertaken by foreign forces, cooperation would be justified; and that, with respect to measures intended for the protection from predatory and irresponsible armed forces of American and other foreign lives and property at Hankow, participation therein might, in the event of an attack, be warranted.

(5) Referring to the instructions concerning possible defense measures at Shanghai (see the Department's 47, February 5, 6 p. m.), the same principles may, the Department feels, reasonably be applied at Hankow.

(6) The Department makes these suggestions so that you may be informed of its attitude. Such portion of the foregoing as you may deem advisable should be imparted by you, as the Department's thought in the matter, to the Commander in Chief and to the Consul General at Hankow.

(7) Respecting the plans mentioned in (3) above, the Department desires information and will welcome such comments as you may wish to make. Please inform the Department in the event of any changed plans.

CARR

893.00/110881

*Memorandum by the Assistant Secretary of State (Castle)*

[WASHINGTON,] August 15, 1930.

I took the Department's telegram No. 272<sup>82</sup> to the White House and explained in some detail why it seemed wise to send such a message. The President was thoroughly in agreement, read the message and said he thought it very good.

<sup>82</sup> *Supra.*

He then went into some discussion of the Chinese situation. He said that, on the whole, he considered the Nationalist Government the best bet for a peaceful China, that he could see no hope of unifying the country in the Northern Coalition. I told him that a battle seemed to be impending between the two groups, with the chances probably slightly favoring the Northerners, that whatever the outcome of the battle it was clear that both sides were about at the end of their resources and that there would shortly be dumped on the country thousands of probably unpaid and destitute troops, who would become bandits or join the "Communists". The President said that if the Northerners won he thought we could do little except sit tight and do all in our power to protect American nationals and interests. On the other hand, if the Nationalists won he believed the time for action had come. He felt that the Nationalists, realizing the impossibility of pacifying the country, particularly because their resources were exhausted, might be willing to ask for help. If this were the case, he felt there should be an international reconstruction loan of perhaps \$200,000,000 given if the Government would agree to receive a financial commission actually to manage national finances, such a commission to be backed by a reasonable number of troops under French or any other officers. I said this would only be possible if the nations were willing to take a strong stand in the protection of national rights and frankly to state that they were not going any longer to stand for banditry, but would in every way support a government which would put it down and establish a fearless and effective rule of the country. The President agreed with this and said that he wanted to be kept closely informed.

W[ILLIAM] R. C[ASTLE], JR.

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893.00/11088 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 15, 1930—noon.

[Received August 15—9:45 a. m.]

701. The following has been received from the American Consul at Tsinanfu:

"August 14, 3 p. m. Government aircraft have been flying over Tsinanfu dropping a few bombs and firing machine guns; at least 6 did so at 7 o'clock this morning. Objectives were probably the Government office in the middle of the city and both railway stations in the Settlement, but the planes stayed at too great height to be accurate; there were several casualties, nearly all civilians. Because no military advantage was gained and because 2,500 foreigners are in Tsinanfu the Consuls ask the Legations [to] suggest that the city be considered outside zone of operations as in June last.



Fu Tso-yi's army on the Tsinpu<sup>ss</sup> front fell back yesterday within 20 miles from here but now they are advancing. Yesterday some fighting occurred 12 miles away; I heard machine gun and gun fire distinctly.

On Tsingtau Railway Shansi forces have withdrawn to Changlo. No important engagement reported."

The Legation has requested American Consul at Nanking to discuss the situation with the Foreign Office, requesting that due care be exercised to prevent injury to American life and property at Tsinanfu.

JOHNSON

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493.11 Changsha/1: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 15, 1930—4 p. m.  
[Received August 15—9:23 a. m.]

702. 1. Following from Hankow:

"August 15, noon. Clark will leave for Changsha tonight. In view of the large losses at Changsha it is possible that a joint claims commission may be desirable. In this connection is there any special data that Clark should include in his report?"

2. Legation replied that it knew of no special data but that Clark's report on damage done American property should be as detailed as time will admit.

JOHNSON

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893.0146/143: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 15, 1930—6 p. m.  
[Received August 15—9:35 a. m.]

704. American Consul General at Shanghai states that the following foreign troops are now stationed in Shanghai: United States marines, 1,243; British troops, 2,169; French troops, 1,230; Japanese troops, 400. Cunningham understands that additional Japanese troops will be landed within a few days from the 24th Division.

JOHNSON

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393.11/1255: Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, August 16, 1930—noon.  
[Received August 16—6:25 a. m.]

Referring to my telegram of August 14, 11 a. m., and Legation's telegram of August 14, noon, concerning Bishop O'Shea and other

<sup>ss</sup> Tientsin-Pukow Railway.

Americans at Kanchow, Cantonese authorities have received no replies to telegrams sent on behalf of these people but tell me that General Ma's troops have probably left Kanchow and the city is in grave danger if not already occupied by communist bandits. Under the circumstances nothing more can be accomplished through Cantonese.

Department, Legation, Hankow informed.

JENKINS

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893.00/11098 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, August 18, 1930—11 a. m.

[Received 11:05 a. m.]

According to letters from Kweilin, dated August 7th, Cantonese planes have dropped 19 bombs on city since July 21st, 3 falling in American Baptist Mission Compound but did no harm. Cantonese forces have withdrawn force and Kweilin was quiet at the time letters were written.

According to letters from Nanning dated August 8, Yunnanese attack on city was still continuing and Kwangsi forces were expected to evacuate soon. Two Standard Oil Company lighters with cargoes are reported to have been commandeered by Yunnanese. I have requested American Consul at Yunnan by radio to take up this matter with Yunnanese military authorities. Four Americans still remaining in Nanning are understood to be safe, also those in Kweilin.

Department and Legation informed.

JENKINS

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893.00/11096 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 18, 1930—1 p. m.

[Received August 18—11 a. m.]

715. My 701, August 15, noon. Following telegram has been received from American Consul at Nanking:

"Subject of Legation's August 15, noon, discussed with Vice Minister of Foreign Affairs who stated that military authorities have already been asked to give due care to protection of foreign lives and property at Tsinanfu in response to requests from German and Japanese representatives. Vice Minister stated that reports of the capture of Tsinanfu by Government forces have been received."

JOHNSON

493.11 Changsha/2: Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, August 19, 1930—noon.

278. Your 702, August 15, 4 p. m. If possible to communicate with Clark, Department desires that he be instructed to examine particularly into the question of the degree of responsibility of the Chinese Government for the damages done at Changsha. His report should include all ascertainable facts bearing on this subject and such evidence as may be obtainable.

CASTLE

303.11/1257: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 21, 1930—2 p. m.

[Received August 21—1:50 p. m.<sup>84</sup>]

730. Legation's 695, August 14, noon.

1. Following from Nanking:

"August 17, 2 p. m. Following is the English translation of reply from Ministry of Foreign Affairs to the note contained in Legation's telegram of August 14, noon, concerning protection of Americans being at Kanchow:

'I have the honor to acknowledge the receipt of your Legation's note stating that if the National forces have not yet left Kanchow they be instructed adequately to protect Americans in that locality and that Americans be permitted to leave the district with the troops.

In its telegram of August 2nd this Ministry requested your Legation to advise foreigners in Kanchow to evacuate immediately in order to avoid danger. The Kiangsi Provincial Government subsequently ordered foreigners in that place to leave the district with the troops, but American missionaries there telegraphed this Ministry expressing their unwillingness to evacuate with the troops. This is not what was expected.

Having now received your note under acknowledgment I have requested the Kiangsi Provincial Government by telegraph to exhaust effort and devise means to effect a rescue and extend protection. I have the honor to indite this note for your information.'

Vice Minister of Foreign Affairs Lee informed me orally yesterday that the telegram received by the Ministry from Bishop O'Shea at Kanchow was a very lengthy one and that in it the Bishop stated that he not only refused to leave Kanchow but also demanded that additional troops be sent there so that he might remain in safety. The Vice Minister also stated he believed that by this time the Communists were already in Kanchow. Repeated to Hankow."

Following from Hankow:

"August 19, 4 p. m. Nanking's August 17, 2 p. m., received.

On August 15 I notified General Ho Ying-chin briefly of Kanchow matter and requested him if possible to send following radio message to O'Shea:

<sup>84</sup> Telegram in three sections.

'Legation has requested Ministry of Foreign Affairs to afford you safe conduct out of Kanchow to place of security in view of the Government's decision withdraw troops from Kanchow. Please notify other Americans.'

Ho replied that it was difficult to get message through to Kanchow but it would be sent as soon as possible. Ho's letter also stated that the National Government has not announced or ordered the withdrawal of the garrison from Kanchow.

I shall take no further action at this time except under instructions from the Legation or Department. [To] Nanking by air mail."

2. In view of the above there would appear to be no further action which the Legation might appropriately take at this time.

JOHNSON

893.00/11113 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

[Paraphrase]

PEIPING, August 22, 1930—10 p. m.

[Received August 23—6:35 a. m.]

738. Referring to your 272, August 15, 11 a. m., paragraph (7). I telegraphed the substance of the Department's instructions to the Commander in Chief and to the Consul General at Hankow.

In reply I have heard from Admiral McVay to the following effect:

The menace against Hankow in the winter of 1926-1927 was from recognized Government forces, but now it is recognized as communistic. American naval forces at Hankow and those of other powers are acting in concert in order to effect the evacuation of foreigners there. In the event of communist attack, such evacuation would be necessary to remove foreigners from the danger of the gunfire of foreign naval vessels. Our naval vessels will take whatever measures are needed for the protection of the lives and property of Americans and other foreigners. It is not contemplated to employ American naval vessels either to protect or to regain the Hankow foreign concessions or to police them for the purpose of preventing the entry of Communists or other lawless elements. American naval vessels will act as may be deemed necessary at the moment to protect American nationals.

Please refer to Fleet General Order No. 3-29, dated September 30, 1929, paragraphs (7) *c*, *d*, and *e*.<sup>85</sup>

I concur in the Department's suggestion that measures for the present situation do not need to be restricted to the steps necessary for evacuation and that, in the event of attack, participation in measures for the protection from ravaging and irresponsible armed forces of American and other foreign lives and property might be warranted.

[Here follows quotation of the above-cited provisions from Fleet General Order No. 3-29.]

<sup>85</sup> *Foreign Relations*, 1929, vol. II, pp. 475, 476.

The reply from the Hankow Consulate General, dated August 21, 5 p. m., was to the following effect:

Reference the Legation's telegram of August 18. It is not planned for nationals to leave Hankow other than as a last resort, but they are to assemble (see Consulate's August 11) at concentration points. A landing force is to protect the Consulate during the concentration and while the foreigners are being transferred therefrom to ships; and should such a course appear necessary, protection as practicable will be afforded to foreigners in general. The present plans of the American naval forces contemplate American cooperation with foreign naval forces in distributing ships along the river water front, in evacuating foreigners from Wuchang, and generally in protecting foreign lives. Secondary consideration will be given to American property.

It would appear that the measures to be taken and the extent to which American lives and property may be protected depend upon the size of the American armed forces on hand. The general principles as outlined in the Legation's circular No. 7 apparently might well be applied to Hankow under the circumstances stated in the Legation's telegram of August 18. There has not come to the Consulate's attention any official or press objection to the foreign armed forces at present concentrating at Hankow.

I concur in the statement by the Department of the difference between the situation existing in 1926-1927 and that which now menaces foreigners along the Yangtze. However, I still feel the instructions to be sufficiently broad as to permit the American naval forces to deal with whatever situation may foreseeably arise in the Yangtze Valley. These instructions permit ample American cooperation with the armed forces of other nations which are interested in protecting foreigners against the attack of marauding bands. I feel that the quotation from Fleet General Order No. 3-29, above, amply illustrates this.

I am still of the opinion that, in view of the conflicting interests both at Hankow and elsewhere in China, to go beyond these instructions now would be calculated to involve the United States in plans and undertakings in which it had no interest.

JOHNSON

393.11/1263 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 25, 1930—1 p. m.

[Received August 25—7 a. m.<sup>86</sup>]

743. Following from Hankow:

"August 21, 11 a. m. The following telegrams have been received from Reverend E. T. Sheehan at Anjenki, Kiangsi:

1. 'Catholic residence occupied by Lu Ti-ping's soldiers; the residence was looted by Reds. After all bandits have left the town these so-called soldiers come and occupy our properties. Tell the Nationalist Government to make itself clear about foreign properties. It not only refuses to protect but it confiscates. National Government does no more to protect us than the Reds did.'

2. 'Soldiers of Lu Ti-ping, Governor of Kiangsi, are preventing me from entering my own house in Yukiang; moreover they are completing the work of the Reds, using residence furniture for firewood, taking some few things the Reds missed; when Nationalist Government refuse to do anything what will America do? Will it do anything to protect us? Exact justice.'

I have telegraphed Lu Ti-ping protesting action of soldiers and requesting that full protection be afforded Reverend Sheehan and property of Catholic mission and have informed General Ho Ying-chin of action taken by me and protest strongly to this action of Lu's troops.

If the Legation takes any further action I should like to be advised."

I have replied as follows:

"August 25, 1 p. m. Legation believes that you have taken all necessary and proper action."

JOHNSON

893.00/11117 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 25, 1930—5 p. m.

[Received August 25—7 a. m.]

745. Legation's 738, August 22, 10 p. m. Following from Hankow:

"August 21, 6 p. m. My August 21, 5 p. m. Hankow is an important center for American business which I feel should have every consistent assistance especially in view of the future possibilities in central and west China for the sales of American goods such as vehicles, petroleum products, largely farm and industrial machinery. The nucleus received by American trade established here, and it can ill afford to receive a set-back such as might occur from predatory and irresponsible armed forces.

I believe augmentation of foreign naval forces in Hankow has had the following excellent effects: (1) Stimulated local authorities to

<sup>86</sup> Telegram in two sections.

take preventive measures; (2) acted as a deterrent to so-called Communists' activities.

The situation in Hankow now seems less tense. Under date of August 8 the Mayor of Hankow in a letter sent to foreign consuls resident [*regarding?*] communist activities requested them there to 'instruct your subordinates to take strict precautions'. Because of the nature of the Minister's [*Mayor's*] letter I forwarded a copy to the Legation by covering despatch No. 1031 of August 14."

JOHNSON

893.00/11218

*The Minister in China (Johnson) to the Secretary of State*

No. 425

PEIPING, August 26, 1930.

[Received September 24.]

SIR: I beg leave to transmit herewith a copy of a letter dated August 19, 1930, from the German Minister,<sup>87</sup> in which Dr. von Borch expresses appreciation for the services rendered by American naval ships, particularly the *Palos*, during the recent communist occupation of Changsha. A copy of this letter has been forwarded to Admiral McVay with the suggestion that the Commander of the *Palos* be informed of the German Minister's sentiments.

Respectfully yours,

NELSON TRUSLER JOHNSON

893.00/11134: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 27, 1930—11 a. m.

[Received August 27—7 a. m.]

755. Following from Hankow:

"August 26, 3 p. m. Changsha was quiet last night but as a precaution some foreign women and children were placed aboard ships in harbor for safety. There are unconfirmed reports in circulation in Changsha that Ho Chien has resigned.

Ships are being fired upon by field pieces at a point 40 miles above Kiukiang by Communists quartered on hillside. One shell was fired at close range at a British ship on which I was travelling, at 2 a. m. on August 24, at point named. Vessel not struck. Japanese and other vessels also attacked at same point. Apparently no effort being made by Chinese authorities to suppress these activities."

JOHNSON

<sup>87</sup> Not printed.

893.00/11180 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 27, 1930—1 p. m.

[Received August 27—1:55 a. m.]

757. Two Nationalist planes, apparently Douglasses, recently delivered, flew over and dropped three bombs which fell in southern part of city this morning at 10 o'clock. Planes apparently from Tsinanfu; also used machine gun. Please inform War Department as from Military Attaché. Apparently no great damage was done. One bomb did not explode.

JOHNSON

393.1154 Standard Oil Co. No. 2/5 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, August 27, 1930—1 p. m.

[Received August 28—5:10 a. m.]

Following telegram has been sent to American Legation, Peiping:

"August 27, noon. Referring to my telegram of March [August] 18, noon [11 a. m.], second paragraph. The three Standard Oil Company lighters and cargoes are still being held by 16th Infantry Brigade, 101st Division of the Yunnanese army near Nanning, in spite of my protests and those of American Consul at Yunnanfu. According to reliable reports, Yunnanese officers are living on lighters adding greatly to danger of fire. May I suggest that Legation take up this matter with Minister of Foreign Affairs at Nanking who may be able to exert pressure on Yunnanese military authorities. Lighters carry form 35 consular and fly American flag.

Repeated to Department and Yunnan."

JENKINS

393.1154 Standard Oil Co. No. 2/6 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, August 28, 1930—noon.

[Received August 28—6:50 a. m.]

Referring to my telegram of August 27, noon, to Legation, Standard Oil Company has just been informed by telegraph that company's office and residence at Nanning have been looted and Yunnanese are mounting guns on all oil lighters.

I am radioing this information to Consul Stevens at Yunnanfu and in the meantime would urge the Legation to impress upon the Minister of Foreign Affairs at Nanking the evident seriousness of the situation at Nanning and urge upon him that measures be taken promptly to bring Yunnanese under control and ensure protection to



Americans and their property. As far as I can ascertain, four American missionaries are still in Nanning.

Department and Legation informed.

JENKINS

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893.00/11136 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 28, 1930—3 p. m.

[Received August 28—6:50 a. m.]

758. My 757, August 27, 1 p. m.

1. The following is a translation of a telegram of August 27th sent by the Chief of Yen Hsi-shan's Diplomatic Bureau here to the Senior Minister now at Peitaiho:

"This morning at 10 o'clock two Nanking airplanes, presumably coming from Tsinanfu, dropped 11 bombs, several of which fell near the Tung Szu-Pai [Lou] on Monday<sup>88</sup> and destroyed two houses, the others falling front of the former Ministry of the Navy and at the Chung Hai.<sup>89</sup> Since the City of Peiping is not important from a strategic point of view and has numerous inhabitants including a large foreign colony, I request that you be so good as to communicate with your colleagues and address a protest to Nanking immediately in order that, in the interest of humanity, such an incident may not recur. The whole population of Peiping would be grateful to you."

2. I have as yet received no word in the matter from the Senior Minister. It is probable that my colleagues will feel that a protest would serve no useful purpose. I propose neither to acknowledge nor to make any protest.

JOHNSON

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393.11/1297

*Memorandum by the Consul at Hankow (Clark)*<sup>90</sup>

[Extracts]

HANKOW, August 28, 1930.

Acting under instructions from Consul Butrick, then in charge of this Consulate General, I proceeded on August 15th, 1930, to Changsha on board the S.S. *Tungwo* to make an investigation of the damages suffered there by American property as a result of the recent communist-bandit occupation of the city. I arrived at Changsha during the evening of August 17th, made such investigation as was

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<sup>88</sup> Monday (August 25) apparently an error, as Wednesday (August 27) was the date of the bombing.

<sup>89</sup> Middle Lake of former Imperial Palace.

<sup>90</sup> Copy transmitted to the Department by the Consul General at Hankow in his despatch No. 1511, September 5, 1930; received October 8.

possible and departed on board the *M. V. Mei Lu* on the morning of August 20th, arriving at Hankow at 1 P. M. August 21st. As instructed by Consul Butrick, my report also includes an estimate of the situation at Changsha, with particular reference to the outlook for the coming autumn and winter.

It is as difficult to fix the degree of responsibility of the National Government in this incident at Changsha as it is in all similar cases of bandit depredations in China to-day. There were undoubtedly sufficient troops in the province (at least three divisions) to have suppressed the bandits, and there was undoubtedly sufficient time, had the Provincial officials been aware of conditions, to have concentrated these Government forces at Changsha, for the protection of that place. However, due possibly to Ho Chien's lack of control over the Hunan troops, and to the petty rivalry and squabbles among the subordinate commanders, there was no cooperation between the various Government units, and the bandits were permitted, almost without resistance, to capture Changsha and to work their will there. The fact that the National Government had sent one of its German military advisers to Changsha just prior to the debacle would seem to indicate that Nanking was cognizant of the disorganization and poor discipline of the Hunan troops. However, the Hunan soldier is notoriously independent, and in this case his morale was low. He had just finished lengthy maneuvers which had ended in the expulsion from the Province of the Kwangsi faction, and he didn't feel like fighting. He had not been paid in three months, and he was outnumbered in each encounter he had with the bandits. I think it might safely be said that the loss of Changsha was due entirely to the incompetence of the military commanders burdened with the responsibility for its protection, and to the lack of discipline among the soldiers.

The outlook for Changsha for the coming autumn and winter is decidedly discouraging. The apparent freedom from interference enjoyed by the so-called communist-bandits in the whole of this section of the Yangtze Valley has become increasingly disturbing, and Hunan is no exception to the rule. Unless the National Government promptly sends additional forces, the question in Hunan would seem to resolve itself into one of the ability of the Government troops at present stationed there to cope with the situation, and suppress the activities of a practically equal number of bandits. In this connection the following points are worthy of note: (1) the bandits are more mobile than the Government troops, and are not handicapped by the necessity of serving as garrisons for the cities; (2) the bandits are paid stipulated wages at regular intervals, whereas the Government troops are often unpaid for months at a time, and even when paid are not paid their full due; (3) the bandits have a greater incentive to fight, as they

know that there will be no quarter given if captured, whereas a Government soldier may always go over to the bandits, and will not only be given quarter, but will be paid for his rifle and ammunition; (4) the bandits are reported to be better organized than the Government forces and equally well equipped; (5) it is much easier for the bandits to obtain funds for their operations than it is for the Government forces, as their discipline is better, permitting less speculation, and as they can capture a town and pick it clean without having to worry about legal or semi-legal methods.

In spite of the prevailing opinion to the contrary, I do not believe that these bandit organizations are really communist in the soviet sense. They may have absorbed some of the elementary principles of communism, but it has not been because they believed in those principles, but rather because they served a temporary purpose. Peng Teh-huai is reported, on good authority, to have endeavored to have his horde incorporated in the forces of the Kwangsi faction when they were in control of Changsha in June, which would tend to indicate that he would not be averse to accepting capitalist principles if advantage could be gained thereby.

However, communism gives them a motive and a slogan, and its use cloaks their activities with a certain degree of legitimacy. They are also well led, and by men of sufficient intelligence to be aware of the advantage to be gained by claiming to be motivated by such leveling principles.

As the depredations of these bandits increase, trade decreases, and there is a consequent increase in the unemployment of the coolie class of laborer. Unemployment among this class will become a very serious problem this winter if the bandit depredations continue to hinder trade. The coolie ordinarily earns only sufficient to keep body and soul together, and when he is deprived of work as often as he now is, and for as long periods, he has no choice but to starve or to take desperate measures to maintain life. Under these circumstances he furnishes fertile soil for the seeds of elementary communism planted by these so-called communist-bandits.

The Chamber of Commerce at Changsha realizes the critical situation that confronts that city this winter, and the Chairman expressed very pessimistic views regarding the measures that would be possible to prevent a recurrence of the recent incident. Led by the Chamber of Commerce, the civil population of the city is making an effort to reorganize the local government, but it is not thought that the selfishness and petty rivalry of the militarists will permit much progress. Though business is continuing more or less as usual, there is at Changsha an atmosphere of waiting for an impending doom that is inevitable.

Unless the civil authorities are able to evolve some system of defense to replace the present incompetent and inefficient one, or unless the National Government is able to replace the Hunan troops with efficient and disciplined units, then there is no doubt but that the bandits can re-enter Changsha almost at will. With these prospects in view it is deemed highly inadvisable that American citizens or firms be permitted to continue their activities in Hunan this winter in the same manner they have in the past. It would be my opinion that it is the time for retrenchment, and that missionary societies should be advised to cease temporarily their activities in Hunan; and that business firms should be advised to treat Changsha as an interior point until conditions have become more stable and it is definitely known what steps the National Government will take for the preservation of peace and order in that district.

*Damages.* It has been established almost beyond a doubt that the bandits had predetermined exactly which buildings were to be destroyed, and that scouts already within the city had informed them of the various locations. Almost all Government buildings and foreign missions were either burned or demolished. If the poor people living in the vicinity of the building to be burned requested it, they were permitted to demolish the building instead of firing it. The bandits were adamant, however, that the buildings indicated should be destroyed. In some instances the neighboring people caused as little destruction to the buildings as possible, but in others, the bandits stood watch over them and compelled an almost complete demolition. In each case, the bandits would enter the building and secure the most valuable and movable loot; then turn the building over to the rabble. When the rabble had cleaned out everything movable, then the building was either fired or demolished. The Chamber of Commerce estimates that the loss to the Chinese merchants will total five million dollars and that that to the Government will reach ten million. However, the Chamber of Commerce is making a thorough investigation of all losses with a view to publishing a pamphlet on the subject to be used for propaganda in an anti-communist educational program, and when these are available, the Chairman of the Chamber of Commerce had promised to supply this Consulate General with copies.

Below there is listed a statement of the estimated losses at Changsha.<sup>91</sup> This statement is made from personal observation, from affidavits of property owners, and from information obtained from Nielsen and Malcolm, Fire Loss Assessors. It will be seen that the total

<sup>91</sup> Not printed.

estimated American losses amount to approximately \$275,000, local currency, while the total estimated loss for which figures are at present obtainable is \$1,333,000. These figures, though incomplete, are the best at present obtainable. The accompanying map <sup>91a</sup> will give some idea of the location of the various premises.

LEWIS CLARK

393.11/1269 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 29, 1930—5 p. m.  
[Received August 29—1:40 p. m.]

765. Canton's August 28, noon. The Legation has telegraphically requested the Ministry of Foreign Affairs to take steps to bring Yunnanese troops under control and fully protect American life and property at Nanning.

JOHNSON

493.11 Changsha/3 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 2, 1930—7 p. m.  
[Received September 2—2:05 p. m.]

775. 1. Following from Hankow:

"August 30, noon. Claims of American citizens and firms for losses suffered at Changsha are being presented to this Consulate General for filing with the Chinese authorities. In view of the circumstances this [*the?*] Legation's instructions are requested as to the necessity of exhausting local remedies before requiring claimants to fill in Department's formal diplomatic claim."

2. I feel that we are not in a position to settle these claims locally and that claimants, therefore, may as well be asked at once to have their claims prepared on or substantially in accordance with Department's formal claim blanks. While Clark's report has not yet been received, it seems probable that the aggregate of the claims will be large. It is possible that they will require special treatment as in the case of the Nanking incident of March 24, 1927.<sup>92</sup> I am informed that the Japanese Government is making an estimate of Japanese losses at Changsha and that the Nanking Government is doing like-

<sup>91a</sup> Not reproduced.

<sup>92</sup> See *Foreign Relations*, 1927, vol. II, pp. 146 ff.; 1928, vol. II, pp. 323 ff.; and 1929, vol. II, pp. 853 ff.

wise in anticipation of negotiations looking towards a settlement. The Department's views are solicited.

JOHNSON

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493.11 Changsha/4 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, September 4, 1930—7 p. m.

309. Your 775, September 2, 7 p. m. Department concurs in the suggestion and opinion set forth in paragraph 2.

COTTON

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393.11/1275 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, September 5, 1930—11 a. m.

[Received 9:52 p. m.]

Referring to my telegram September 2, noon.<sup>92a</sup> U.S.S. *Mindanao* telegraphs that Standard Oil Company lighters have arrived safely at Wuchow from Nanning with company's employees on board and several missionaries. Although Commander does not say so, I assume that all company's lighters are now in Wuchow. Legation has been informed.

JENKINS

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893.00/11168 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 5, 1930—3 p. m.

[Received 10:15 p. m.]

781. Following from Hankow:

"September 4, 3 p. m. Through naval sources it is learned that situation at Changsha is still acute. Estimated 40,000 Communists, 17,000 of whom are armed with rifles in the neighborhood of Changsha. Engagement between them and Ho Chien's forces took place yesterday but apparently without any decisive result on either side. Ho Chien, who claims to have 31,000 troops, is awaiting reinforcements. Three American gunboats now at Changsha, namely, *McCready*, *Guam* and *Palos*. One gunboat, *Tutuila*, at Hankow. Traffic resumed to Yenching on Kinhan Railway,<sup>92b</sup> denoting improved situation in immediate railway zone at Kwayuan."

JOHNSON

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<sup>92a</sup> Not found in Department files.

<sup>92b</sup> Peiping-Hankow Railway.

893.00/11172: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 7, 1930—6 p. m.

[Received September 7—3 p. m.]

## 788. Following from Hankow:

“September 6, noon.

1. Air-mail aviator arriving here yesterday reports passing over a large town halfway between here and Kiukiang which was almost completely in flames. Aviator stated that he saw several bodies lying in the streets and practically all of the inhabitants gathered on the fore shore and taking to sampans and boats. Town is on right bank but could not be identified by the aviator, but it is between Hwang-shihkang and Wusueh and is believed to be Hwangshangkow.

2. Communist forces began an attack on Shasi day before yesterday but were repulsed. Public Safety Bureau here now state that Shasi was captured by communist army last night. Four American citizens, names not known, took refuge on Japanese vessels. Reverend and Mrs. E. Zimmerman and one child and Miss Gertrude Simon of the Evangelical Lutheran mission are Americans registered here as residents of Shasi.

3. No material change in Changsha situation.

4. Chinese military authorities announce Feng's troops now withdrawing along Kinhan front. American missionary arriving here from Yencheng, Honan, reports enormous massing of government troops that area, with air forces, and every indication of an impending major operation against Chengchow.”

JOHNSON

893.00/11176: Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, September 10, 1930—5 p. m.

[Received September 10—3 p. m.]

## 79. Following sent to the Legation:

“1. Conditions at various points along the river are beginning to approach serious state of affair[s] spring 1927. Heavy firing by trench mortars, machine guns and rifles on practically all vessels passing a point on the right bank 45 miles this side of Kiukiang. Notwithstanding foreign gunboats have repeatedly shelled the place, attacks still being made on passing vessels. At three different points on river between Chenglingki and Ichang similar attacks being made on passing vessels. American merchant and naval vessels have been attacked at several of these points recently. No casualties thus far.

2. There have been exceedingly heavy shipments of ammunition up the Kinhan Railway for the past few days and still continuing. Heavy recruiting of fresh troops still taking place; motor trucks in large numbers were commandeered yesterday and shipped up the Kinhan Railway. Many of these had been sold to private owners

by local American firm on installments and have not been entirely paid for. There is great activity in military circles and unmistakable evidence of impending major military operation along the Kinhan front.

3. Strict martial law still being enforced Hankow but no further public beheadings since those reported in my September 8, 4 p. m.<sup>93</sup> Repeated to Department. Mail copy to Nanking."

LOCKHART

393.11/1296

*The Consul General at Hankow (Lockhart) to the Minister in China (Johnson)*<sup>94</sup>

L. No. 1055

HANKOW, September 10, 1930.

SIR: I have the honor to enclose herewith, as of possible interest, a copy of a letter addressed by me under date of September 10, 1930, to Mr. W. Russell Brown,<sup>95</sup> Acting British Consul General at Hankow, by way of an expression of appreciation for the service rendered to several American citizens who evacuated from Changsha during the recent trouble there and who were brought to Hankow on board H. M. S. *Aphis*. The letter explains itself.

I have [etc.]

F. P. LOCKHART

893.00/11194 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, September 15, 1930—4 p. m.

[Received September 15—3:15 p. m.]

[81.] Following has been sent to the Legation:

"September 15, 3 p. m. U.S.S. *Oahu* heavily fired upon by Communist soldiers at mileage 203 above Hankow on the 13th. *Oahu*, which was escorting steamship *Iping* of Yangtze Rapid Company, returned fire with eleven 3-3 inch shells and 200 machine gun rounds. No casualties on *Oahu*. Red flags visible at five different points on river between Ichang and Chenglingki. Similar attacks on French, Japanese and British vessels proceeded this stretch of river on 13th and fire returned.

Attacks still occur daily on foreign vessels at point 45 miles above Kukiang. Twelve mortar shots from trench mortar fired at Yangtze Rapid lighter number 2 at this point on 13th, also heavy rifle firing.

No substantial change in Changsha situation; population there in common fear of recapture of city by Communists in north which is still maintaining its position near by. Repeated to Department."

LOCKHART

<sup>93</sup> Not printed.

<sup>94</sup> Copy transmitted to the Department by the Consul General in his despatch No. 1560, September 10, 1930; received October 8.



893.00/11159

*The Secretary of State to the Minister in China (Johnson)*

No. 252

WASHINGTON, September 15, 1930.

SIR: The Department refers to the Legation's telegram No. 777 [770] of August 30, 1930,<sup>98</sup> and to preceding messages, in regard to the dropping of bombs on Peiping by two Nationalist planes on August 27, 1930.

Your decision, as reported in the Legation's telegram No. 758 of August 28, 1930, neither to acknowledge nor to act upon a request made of the Senior Minister by the Chinese authorities in Peiping that he, in consultation with his colleagues, address a protest to Nanking in order that a similar incident may not occur in the future, seems evidently to have been based upon a desire to avoid the appearance of partiality in connection with hostilities between the National Government and the northern coalition.

The Department fully appreciates the desirability of avoiding all appearance of intervention on behalf of the Chinese authorities now in control of Peiping, but the fact must, of course, be recognized that large numbers of American citizens reside and have property in Peiping in accordance with their rights under the treaties. The Department assumes that if the lives and property of American citizens in Peiping appear to be subjected to imminent danger from the carrying on of operations which do not seem to have the justification of "military necessity", by whatever forces, the Legation will take on their behalf measures similar to those already taken, for example, on behalf of American citizens in Chengchow, Taian and Tsinan, as reported in the Legation's telegrams No. 333 of May 14, No. 630 of July 29, and No. 701 of August 15, 1930. It would seem that, for the present at least, the question of the possible necessity for giving advice to American citizens in Peiping to withdraw has not had to be given consideration.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

393.11/1291: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 17, 1930—1 p. m.  
[Received September 17—10:50 a. m.]

820. Legation's 765, August 29, 5 p. m. Following is translation of last paragraph of note, dated September 15, from Ministry of Foreign Affairs:

"This Ministry has referred the above by telegraph to the Yunnan Provincial Government for consideration and action. A reply has

<sup>98</sup> Not printed.

now been received stating that it has telegraphed the commanding generals on the fronts to make an investigation and to promptly return the lighters as well as to instruct the various units scrupulously to protect foreigners."

For the Minister:  
PERKINS

893.00/11197 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, September 17, 1930—4 p. m.  
[Received 8:10 p. m.]

83. Following sent to the Legation:

"September 17, 3 p. m. U.S.S. *Luzon*, flagship of Admiral Craven, Commander, Yangtze Patrol, fired upon by fieldpieces yesterday at a point 25 miles above Wusueh and again 15 miles further down river. Fire was returned in both instances by 3-inch and machine guns. No casualties on *Luzon*. This stretch of river has been in complete control of communist bands for several months and National troops have not been able to dislodge them. This situation is serious menace to navigation and I have repeatedly called it to attention of local authorities.

In the shipment of airplane bombs to the north, referred to in my September 16, 4 p. m.,<sup>97</sup> there were also many cases of 150-pound bombs.

Local authorities, both civil and military, are bringing the strongest sort of pressure to bear on merchants, bankers and all Chinese to subscribe to new loan. Threats and intimidation and the use of soldiers in forcing these demands are not uncommon.

Repeated to the Department."

LOCKHART

893.00/11222 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, September 25, 1930—5 p. m.  
[Received 5:40 p. m.]

85. Following sent to the Legation:

"September 25, 4 p. m. Communist soldiers yesterday fired upon several ships with fieldpieces 45 miles this side Kiukiang, among vessels attacked being the U. S. Ship *Oahu* at which 10 shells were fired. *Oahu* returned fire with 19 rounds of 4-inch shells, 13 of which are believed to have taken effect. *Oahu* was fired at again a few miles further down river and fired seven 3-inch shells in return. Other vessels heavily fired upon in same area.

U. S. Ship *Guam* was fired upon by rifle fire from communist group on right bank of river at mileage 193 above Hankow and

<sup>97</sup> Not printed.

returned fire with 300 rounds machine gun and some 3-inch shells. Other vessels are being fired upon this area. *Guam* reports large numbers of communist soldiers with Red flags on both banks of river from a point a few miles above Chenglingki to mileage 200 above Hankow. No casualties on *Oahu* or *Guam*. Repeated to Department."

LOCKHART

893.00/11224a : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, September 30, 1930—3 p. m.

339. 1. *New York Times*, September 27, carries Washington despatch with headline "Weighs Plan to End Yangtze Red Raids". Text contains paragraph: "Officials denied today that there was any concrete plan and it was also denied that any proposal for concerted action had been received from any of the other interested Powers". This statement correct, headline misleading.

2. Nevertheless, the Department is deeply concerned over the increasing frequency and severity of armed exchanges between Chinese forces on the banks of the Yangtze and American naval vessels. The Department notes that these attacks are generally attributed to "communist or Red" bands. Department doubts whether this characterization adequately explains all such incidents and believes that new and authoritative information with regard to sources and objects of the Chinese firing should be sought.

3. Department believes that American authorities in China cannot be too often reminded of the policy of this Government to avoid as far as may be compatible with the performance of their duties armed encounter with the Chinese. Department is aware of Commander in Chief's standing orders and is confident that Commander in Chief fully understands and approves the policy laid down by the Administration. Department therefore desires that you discuss this situation and problem informally with him and requests that both you and he seek information with regard to the instigation, source and objective of the Chinese firing.

4. Unless you feel it inadvisable, Department desires also that you address to the Chinese Minister for Foreign Affairs a telegram giving the details of typical recent incidents in which American naval vessels have been obliged to protect themselves from unprovoked attacks and expressing the earnest hope of this Government that the National Government will take measures to put an end to the occurrence of these incidents.

5. Repeat to Hankow and Nanking for confidential comment regarding the facts in the situation and possible method of reducing the number of these encounters.

6. Inform Department of views and any action taken.

STIMSON

893.00/11229 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, October 4, 1930—2 p. m.

[Received 3 p. m.]

89. Following sent to the Legation :

"October 4, 1 p. m. Hsuehchong, Honan, which has long been occupied by Kuominchun troops and many times reported as captured by National troops is now occupied by latter and held. Also officially announce fall of Kaifeng to government forces.

U.S.S. *Luzon* fired upon at point 45 miles this side Kiukiang on 2nd and returned fire. Steamship *Ichang* of Yangtze Rapid Company heavily fired upon about 10 miles above Chenglingki on September 29 by rifles and trench mortar. Fire returned by naval armed guard aboard. Repeated to Department."

LOCKHART

393.11/1211

*The Secretary of State to the Minister in China (Johnson)*

No. 272

WASHINGTON, October 7, 1930.

SIR: The Department has given consideration to the Legation's despatch No. 253 of June 12, 1930, concerning the protection of American oil products shipped on consignment to Chinese agents in the interior. There was transmitted with this despatch a copy of the Legation's instruction to the American Consul General at Hankow dated June 12, 1930, expressing the opinion that the Consulate General in place of frequently requesting that the Chinese authorities afford protection to American oil products shipped on consignment to Chinese agents should confine its representations to bringing to the attention of the appropriate Chinese authorities reports of existing conditions, with the statement that American property appeared to be endangered. The Legation, in its despatch, added the comment that it did not seem to be consistent to go further in the protection of American property than in the protection of American lives.

The Legation's comment appears to refer to paragraph three of the Legation's telegram to the Department No. 190 of March 12, 1930, 11 a. m., in which the Legation suggested that steps be taken looking toward the issuing of instructions by certain missionary

organizations to their representatives at Kanchow to withdraw, in view of "the manifest impropriety of the Legation's having repeatedly to urge at brief intervals that an army be sent to or maintained in southern Kiangsi in order to protect the mission."

As the Legation is aware, the Department's policy has been for some years to advise American citizens against proceeding to or remaining in regions in China where dangerous conditions obtain and where the Chinese authorities appear to be unable to afford them adequate protection. The Department has not, however, taken the position that the Chinese authorities can be absolved from their responsibility under the treaties to afford protection to American citizens legitimately residing or traveling in China. The fact that the Department in deciding upon its course of action in connection with such matters, for example, as asking for protection or for indemnity, may take into consideration the failure of an American citizen to exercise discretion does not diminish the responsibility placed on the Chinese authorities by the treaties.

The same reasoning applies to the property possessed by American citizens in the interior. Article XIX of the Treaty of 1844<sup>98</sup> is explicit in promising to citizens of the United States "for themselves and everything appertaining to them, the special protection of the local authorities of Government", and specifically mentions "their dwellings or their property". In the present instance the discussion relates to consignments of oil products shipped by an American firm to its Chinese agents at interior places. The Department believes that American firms should be advised to refrain from shipping their goods to regions in which the Chinese authorities presumably will be unable to accord them protection. While it obviously will be to the advantage of American firms to observe the dictates of ordinary prudence in such matters, nevertheless, when the question of judgment does not enter in, as in the case of immovable property acquired in good faith and property overtaken by dangers which may not reasonably be anticipated, the Department believes that the Chinese authorities should be held to strict account.

It would be impossible to summarize in a single rule applicable to all cases the position which should be taken by American diplomatic and consular officers in China in calling upon the Chinese authorities for the protection of American life and property in China. The treaties, however, place on the recognized government of China special responsibility for the safety of American citizens and of their property legitimately in that country. Until the treaties and the conditions peculiar to China on which they are based are altered, the Department believes that its officers would not be warranted in

<sup>98</sup> Treaty of peace, amity, and commerce between the United States and China, signed at Wang Hiya, July 3, 1844; Miller, *Treaties*, vol. 4, pp. 559, 565.

appearing to absolve the Chinese Government or local authorities of any of the responsibility for the "special protection" of American citizens which is by treaty placed upon them.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

893.00/11230 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, October 7, 1930—5 p. m.

[Received 8:35 p. m.]

90. Following sent to Legation:

"October 7, 3 p. m. U. S. S. *Panay* was fired upon by trench mortars from right bank of river at a point 45 miles this side of Kiukiang this morning. Fire was returned with 450 rounds machine gun ammunition and seven 3-inch shells. *Panay* turned and passed point of attack twice but there was no hand firing from shore. No casualties on *Panay*.

Military authorities continue to announce further advances of central forces in Honan. Americans state Feng Yu-hsiang is definitely abandoning Chengchow.

Repeated to Department."

LOCKHART

893.00/11232 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 8, 1930—noon.

[Received 8:39 p. m.<sup>99</sup>]

887. Your 339, September 30, 3 p. m.

1. Upon receipt of the Department's telegram I repeated it to Hankow and Nanking for confidential comment as the Department requested. I also repeated it to the Admiral. Following based upon comments which I have received.

2. As to instigation. Lockhart says:

"The real instigators are not definitely known but there is reason to believe attacks are a part of campaign of the several communist or bandit armies in this district, aided and abetted by enemies of Chiang Kai-shek, to cause trouble for the Nanking Government. There are those who believe that the responsibility rests with Northern militarists who desire to make as much trouble as possible in the rear of the Nanking army and thereby draw troops away from the front and also to prevent despatch of further troops northward which two purposes have been served. This theory is somewhat sustained by repeated efforts of political agitators to create trouble at Hankow for past two months. Such a widespread and thorough organization

<sup>99</sup> Telegram in ten sections.

lends color to the theory that shrewd political agents associated with the Northern allies may possibly have instigated the campaign which has not been difficult to execute because of the willingness of ex-soldiers and professional bandits to enlist in the cause. Since the firing is directed at all vessels including those under Chinese flag, it would not be correct to term it antiforeign in character. It is unquestionably being done by groups of armed men identified with the several communist or bandit armies which have been operating in this district for several months."

Admiral McVay states that

"Various detached forces and bands engaged occupying and looting towns in several localities and in firing on vessels along the Yangtze River cannot all be definitely characterized, but no matter whether they are called or call themselves Communists, bandits or robbers, result is same as they are against recognized Chinese Government and regularly organized Chinese military forces. Chinese and foreign individuals and interests suffer and there are numerous cases where towns have been looted and burned, inhabitants murdered or held as hostages for ransom and Chinese women taken."

[Paraphrase.] In a conversation I had with Admiral Sir Arthur Waistell, British Commander in Chief, China Station, he informed me that British ships on the Yangtze River were having a difficult time between Wusueh and Hankow and west of Hankow in the Shasi neighborhood. The Admiral said that the banks of the river had been occupied by bands using the communist insignia, and they were firing boldly at all ships passing up or down the river; that the Chinese population had been compelled to flee; that navigation aids marking the river channel, such as beacons and lights, had all been either destroyed or moved; and that evidently it was the intention of these people entirely to interrupt river traffic. The Admiral supposed it was their purpose to destroy commerce on the river in order to embarrass the National Government at Nanking and to embroil it with the foreign powers. [End paraphrase.]

3. Sole firing is done by armed Chinese forces occupying river banks between Wusueh and Hwanghsihkang between Kiukiang and Hankow and above Hankow in the neighborhood of Shasi. These bands are part of organized armed forces under various leaders which would then terrorize [*have been terrorizing?*] the provinces of Hunan, Kiangsi and Hupeh during the past 7 months. They are made up of ex-soldiers and of radically inclined forces that accompanied the Nationalist advance on Hankow in 1926, to leave with Chang Fah-kwei in 1927, plus local bandits, and are added to from time to time as various armies are defeated, demobilized or mutiny because of lack of pay. These groups use communistic slogans and insignia which has given rise to term applied to them by Chinese as well as foreigners. They renew their supplies of ammunition by seizing

arms in towns or cities captured, or by purchase from Government unpaid troops.

4. Objectives. As to objectives I have partly covered this in paragraph 2. To summarize views expressed to me, objective would appear to be embarrassment of Nationalist Government at Nanking by interrupting traffic on the river and embarrassment of the Government by several foreign powers. To this may be added irresponsibility and pure deviltry of men possessing arms who have nothing to lose by their activities.

5. [Paraphrase.] I consider it would not be wise to address the Chinese Minister for Foreign Affairs upon this subject, since it is my feeling, and Admiral McVay is in agreement with me on this point, that a communication of this sort would only bring a reply to suggest that American vessels be completely withdrawn from the Yangtze. It is the view of the Legation, with which, I believe, both Consul Adams and Consul General Lockhart agree, that the Chinese Government will attempt to take steps for the suppression of this activity should peace prevail as a result of the present intervention by Marshal Chang Hsueh-liang and should the Government be able to withdraw armies for the purpose from the Lunghai Railway area. The Government will be obliged to take some steps in order to prevent the movement from completely paralyzing trade in the Yangtze Valley and thereby curtailing much-needed revenues. However, the Government will be handicapped by the greater mobility of the bandit groups and by the probable unwillingness of the soldiers to engage further in warfare. [End paraphrase.]

6. Lockhart makes following suggestion:

"An appreciable reduction in the number of engagements between American naval vessels and the armed forces being made could probably be effected by a considerable reduction in the movement of such vessels from one position to another. The frequent passage of naval vessels between Hankow and Kiukiang and Hankow and Ichang invariably subjects these vessels to fire and they quite naturally do not wish to be attacked and not return the fire. Except in cases of necessity which may certainly be expected to arise occasionally, naval vessels, pending a clearing up by the Chinese authorities of a bandit-infested area along the river, might well remain in the large ports where the possibility of such attacks is reduced to a minimum. The movement of naval vessels is of course of necessity for the protection of American lives and property, for the morale of the officers and men and for repairs but I do feel that the movements could be appreciably reduced and thereby remove some of the opportunities for engagements with armed forces ashore. I favor station ships for the principal ports of the Yangtze so far as that policy is feasible from naval point of view."

7. [Paraphrase.] I feel there is considerable virtue in the suggestion by Lockhart, but I hope the Department may be careful in



whatever use it makes of the suggestion, or in whatever discussion it has with the Navy Department, so that Lockhart may be protected from any criticism or implication. [End paraphrase.]

8. All nationals, British, French, Italian, Japanese, American and Chinese, are suffering from the same menace. Bandit groups are attacking all without discrimination. I cannot see how our naval vessels can act otherwise than they have acted. It is significant that there has been no reaction on the part of Chinese, either north or south, against activities of foreign naval vessels. This may be due to the fact that in the south they believe attacks are instigated by Northerners (see Lockhart's suggestion in paragraph 2), and unwillingness of North to admit connection with outrages. Unless we are to permit river to be closed completely to traffic by American naval and merchant ships, firing by American naval vessels will have to continue as long as attacks are kept up.

JOHNSON

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893.00/11232 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, October 10, 1930—5 p. m.

347. Your 887, October 8, noon. Department concurs in views expressed in paragraphs 5, 6, 7 and 8.

Department has discussed the matter with Navy Department, making suggestions interrogatively only and without referring to source. Department had already told Navy Department that we feel solution should be sought in conferences between the Minister and the Commander in Chief and not on the basis of definite instructions from either Department. Navy concurs. Please discuss possibilities with the Commander in Chief, with a view to achieving the objective of diminishing the number of encounters.

STIMSON

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393.11/1298 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 12, 1930—11 a. m.

[Received October 12—7:46 a. m.]

898. Following from American Consul at Foochow:

"October 11, 9 a. m. British Consul returned from up river on October 9 accompanied by the following Americans: John R. Grace from Chungan; Paul Curran and Bernard C. Werner from Kien-ningfu; Doctor and Mrs. Edward James Skinner and Miss Mamie F. Glassburner from Yenping. Only Americans now remaining in

Upper Min River territory are William F. Cassidy, last heard from at Sankong, and Doctor Walter H. Judd at Shaowu."

JOHNSON

893.00/11248

*The German Chargé (Kiep) to the Secretary of State*

[Translation <sup>1</sup>]

WASHINGTON, October 14, 1930.

MR. SECRETARY OF STATE: Under instructions of my Government, I have the honor to inform Your Excellency as follows:

From reports received at Berlin regarding the troubles occurring at the end of July and beginning of August in the Chinese city of Changsha, it appears that the rescue of a large part of the German citizens living in Changsha is due to the solicitude and energetic assistance of the American naval forces stationed there. Especially did the American gunboat *Palos* most magnanimously concern itself in behalf of the hardpressed Germans by granting them refuge.

I have therefore been charged with the honorable duty of expressing the most sincere thanks of the German Government to the American Government for the help thus afforded, while at the same time requesting that these thanks be conveyed also to the American naval forces which participated in the act.

Please [etc.]

KIEP

393.1111 Nelson, Bert N./1: Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, October 14, 1930—5 p. m.

[Received 8:55 p. m.]

91. The following telegram has been sent to the Legation at Peiping:

"October 14, 5 p. m. Reverend Bert N. Nelson, holder of Hankow passport number 96, issued November 15, 1927, currently registered here and whose legal residence in the United States is at 425 Fourth Street South, Minneapolis, Minnesota, was captured by Communists on night of October 5 at Kwangshan, Honan. I received following letter from Reverend Nelson today, dated Kwangshan, Honan, October 7:

'I came into the hands of the Communists known as the First Red Army during the night of October the 5th when Kwangshan was stormed.

They ask me to respectfully forward a demand upon Chiang Kai-shek through your honored office for the amount of \$300,000 Mexican. Or if the American Government will give \$100,000 towards my release, only \$200,000 will be expected from the former.

<sup>1</sup> File translation revised.

The above is dictation. I prefer to write nothing since I had warning from your good office. At the same time, I am committed to the task of being a missionary in China and do not see how I can avoid taking a call [*chancee*].

I am truly sorry, but my sentiment cannot change the course of events.

The address of the First Red Army must be sought out along the Kinhan Railway in reply. A reply is expected within two weeks or soon thereafter. Respectfully, Bert N. Nelson.

I have brought this case to attention of General Ho Chen-chun instantly today and have also telegraphed General Ho Ying[-chin] also at Chengchow requesting that immediate steps be taken to release Reverend Nelson. I respectfully suggest that the case be also taken up with authorities at Nanking."

Repeated to the Department.

LOCKHART

393.1111 Nelson, Bert N./2 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 16, 1930—noon.

[Received October 16—5:55 a. m.]

907. Hankow's October 14, 5 p. m. The Legation is telegraphing Adams to take this matter up at once with the Ministry of Foreign Affairs with a view to effecting the release of the Reverend Nelson at the earliest possible moment.

JOHNSON

893.00/11249 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, October 16, 1930—4 p. m.

[Received 6:06 p. m.]

92. The following telegram has been sent to the Legation:

"October 16, 3 p. m. Steamship *Ifung* of Yangtze Rapid Company fired upon at four different places between Chenglingki and Ichang day before yesterday. One shot from trench mortar hit the vessel but no casualties. Armed naval guard aboard returned the fire. I have lodged protest with local authorities against this attack and have done likewise in connection with other recent attacks against American vessels.

Large contingents of troops are arriving from Honan and indications point to a real effort towards suppressing activities of Communists and bandits in Hupeh, Hunan and Kiangsi, the latter province to receive first attention. Troops have already been despatched to Kiukiang for that purpose.

Martial law at Hankow still further relaxed. Repeated to Department."

LOCKHART

393.1111 Nelson, Bert N./6 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 18, 1930—1 p. m.

[Received October 18—9:50 a. m.]

911. Legation's 907, October 16, noon. Following from American Consul at Nanking:

"October 17, 2 p. m. Your October 16, 11 a. m.

This morning, in the absence from office of C. T. Wang and Frank Lee, I called on Hsu Moh, Chief of the European and American Affairs Department of the Ministry of Foreign Affairs, and left with him a memorandum embodying the essential facts in the Legation's instruction concerning the capture of Reverend Bert N. Nelson.

Hsu Moh said that day before yesterday, upon first learning of the capture of Nelson, the Ministry had telegraphed to the Honan authorities to make every effort to obtain his release. Hsu gave me his assurances that the Ministry would again telegraph without delay to the responsible military authorities in Honan and do everything within their power to obtain Nelson's early release.

Hankow informed."

JOHNSON

893.00/11315

*The American Minister in China (Johnson) to the Chinese Minister for Foreign Affairs (C. T. Wang)<sup>2</sup>*

No. 172

PEIPING, October 18, 1930.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of September 22, 1930,<sup>3</sup> regarding the indignities and cruelties perpetrated against certain American citizens of the Lutheran United Mission at Suiping, Honan, by the Propaganda Bureau and Party Headquarters of that city.

It is very evident, from the perfunctory nature of the reply received by Your Excellency from the Central Party Headquarters, that no real investigation has been made of the facts set forth in my previous notes. The Central Party Headquarters merely states that the facts contained in the reports submitted by the Honan Provincial Party Headquarters do not agree with the statements of the American missionaries, but no attempt is made to show in what respect they differ. Furthermore, the reply of the Central Party Headquarters would seem to imply that the American missionaries in question have been interfering with the affairs of the Party Headquarters. This allegation is

<sup>2</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 549, October 27, 1930; received December 3.

<sup>3</sup> Not printed.

entirely unsupported by any evidence establishing such interference and is ridiculous.

Inasmuch as no satisfactory action has been taken by the Chinese Government, I must once again strongly urge Your Excellency to cause an impartial and thorough investigation to be made and the perpetrators of these indignities to be punished. I feel sure that it is not the intention of Your Excellency's Government to permit unfriendly acts of this nature committed by subordinate organizations of the Government to pass without impartial investigation.

I avail myself [etc.]

NELSON TRUSLER JOHNSON

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393.1111 Nelson, Bert N./10 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 20, 1930—7 p. m.

[Received October 20—9:45 a. m.]

916. Legation's 911, October 18, 1 p. m.

1. After being held by bandits in North Fukien for over 3 months, two British missionary ladies, the Misses Harrison and Nettleton, were, according to Reuter, "clumsily and brutally beheaded" by their captors some two weeks ago. During this period intermittent negotiations were held with a view to their ransom for a lesser amount than the [\$]100,000 demanded. It does not appear however that the Chinese authorities made any determined effort to obtain their release. The incident has aroused widespread indignation among the foreign community in China, and the British authorities are being subjected to criticism for alleged inactivity during this prolonged period of chaos.

2. Particularly in view of the foregoing the Legation is deeply concerned not only with regard to the safety of the Reverend Nelson but also with regard to the situation of other American citizens resident at exposed points. Navy despatches from Changsha indicate that Americans are still returning to Hunan, there now being 9 in the Changsha and some 74 in other parts of the Province and in adjoining areas in Kweichow. Missionary societies remain largely indifferent to the realities of the situation as instanced by the decision to keep open the American school at Kikungshan, Honan, against the advice of the American Consul General at Hankow (see Hankow's despatch No. 1051, September 9, 1930<sup>5</sup>).

3. With reference to the case of the Reverend Nelson the Legation suggests that added weight might be given to its representations at Nanking were the Department to inform the Chinese Minister of the

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<sup>5</sup> Not printed.

deep anxiety which is felt here for Nelson's safety and our apprehension lest the Chinese Government forces take [no] more effective measures on his behalf than it [*they*] did in the case of Misses Harrison and Nettleton.

JOHNSON

893.00/11252 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, October 21, 1930—3 p. m.  
[Received October 21—10:20 a. m.]

96. The following telegram has been sent to the Legation:

"October 21, 3 p. m.

1. My French colleague informs me that one French and three Italian Fathers and one Filipino and one Italian and four French Sisters are in hands of communist bandits who recently captured Kian, Kiangsi. Italian and French authorities have taken up with Chinese officials matter of effecting release and I have telegraphed Lu Ti-ping at Nanchang concerning release of Filipino Sister and have also requested assistance of authorities here.

2. Martial law has been lifted from Hankow for first time since early in July.

3. Yangtze Rapid lighter No. 1 fired upon at mileage 174 and 200 above Hankow by rifles and trench mortars day before yesterday.

4. Another bandit suppression conference will be held at Hankow in a few days. Troops continue to arrive here from Honan to participate in this work, the 60th and 61st Divisions having arrived yesterday.

Repeated to Department."

LOCKHART

893.114 Narcotics/163

*The Secretary of State of the Chargé in Switzerland (Moffatt)*

No. 1078

WASHINGTON, OCTOBER 21, 1930.

SIR: The Department acknowledges the receipt of the Legation's despatch No. 1593 (L. of N. No. 1758) of August 14, 1930,<sup>8</sup> in regard to questions as to withdrawal of protection from American vessels engaged in smuggling opium in Chinese waters.

In reply to the inquiry from the Chief of the Social Questions and Opium Traffic Section of the League of Nations, it may be said that the withdrawal of protection from an American vessel trading in Chinese waters means withdrawal of protection in general. It means that consular officers of the United States would not even exercise good offices, official or unofficial, in behalf of such vessels; and that the Chinese Maritime Customs would be notified of the

<sup>8</sup> Not printed.

withdrawal of American documentation and informed that facilities granted to such vessels on the strength of such American documentation need no longer be granted.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

893.1111 Nelson, Bert N./13 : Telegram

*The Consul at Nanking (Adams) to the Secretary of State*

NANKING, October 22, 1930—noon.  
[Received October 22—10:50 a. m.]

33. The following telegram has been sent to the Legation:

"October 22, 11 a. m. In a note dated October 21st the Ministry of Foreign Affairs informs me that following telegraphic instructions from the Ministry to the Honan Provincial Government and to the temporary headquarters of the Commander in Chief at Chengchow concerning measures to effect the release of Reverend Bert N. Nelson, a reply has been received from the Chengchow headquarters reporting that separate telegraphic instructions had been issued by the headquarters to the two divisions under Tai and Yuan to take steps locally to effect a rescue.

I am keeping the case before the Ministry by frequent inquiries for news.

Hankow informed."

ADAMS

893.00/11253 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 22, 1930—4 p. m.  
[Received October 22—11 a. m.]

920. 1. Following from the American Consul at Nanking:

"October 21, noon. Ministry of Foreign Affairs sent a representative this morning to inform me that Kian, Kiangsi, is in the hands of bandits and that such Americans as may be in Kian should withdraw at once to places of safety if it is possible for them to do so. The Ministry stated that Kiangsi provincial troops are now en route to Kian to attack the bandits there. I gather that the Ministry fears that the attack by Government troops upon Kian may endanger any Americans there. The Ministry is of the opinion that quick telegraphic notification to Americans in Kian is necessary. Hankow informed."

2. Legation is instructing Adams to urge the Ministry of Foreign Affairs to take steps for the release at the earliest possible moment of the Filipino Sister taken by bandits at Kian. (See Hankow's October 21, 3 p. m.)

JOHNSON

893.00/11260 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, October 22, 1930—4 p. m.

[Received 8:25 p. m.]

97. My 96, October 21, 3 p. m. The following telegram has been sent to the Legation:

"October 22, 4 p. m. Catholic priests have arrived at Kiukiang from Kian and report the Fathers referred to in my October 21, 3 p. m. were tied together, paraded and beaten by Communists. No destruction of property at Kian had occurred up to 14th but considerable looting. Communist army which invaded Kian was led by Chu Teh, Mao Tse-tung and Peng Teh-hwai. The refugees left Kian 14th, travelling via Changshu; were arrested many times by communist soldiers but released on showing safe conduct issued by communist leaders at Kian who released Fathers for the purpose of permitting them go to Kiungchau [*Kiukiang?*] to raise ransom of ten million dollars. Priests observed no Government troops going to relief of Kian. Repeated to the Department."

LOCKHART

393.11/1304 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING[, October 22, 1930—7 p. m.]

[Received October 22—11:35 a. m.]

923. Following from American Consul at Hong Kong:

"October 22, 1 p. m. Father McGillicuddy of Catholic Mission at Kanchow informs me that the eight Americans in Kanchow including Bishop O'Shea and Fathers Cahill, Strauble, Curtis, Erbe, McLaughlin, Young and Moehringer, were last heard from by letter dated October 9th stating they desired to leave but were unable to do so safely. He is unable to get messages through to wireless station at Kanchow and is alarmed for their safety in view of reported Communist capture of Kian. I have informed Canton only."

JOHNSON

393.1111 Nelson, Bert N./14 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, October 23, 1930—5 p. m.

[Received 8 p. m.]

98. The following telegram has been sent to the Legation:

"October 23, 5 p. m. I sent another telegram to General Ho Ying-chin at Chengchow yesterday urging upon him the necessity of obtaining immediate release of Reverend Nelso. I suggested also



that he send a special representative to Kwangshan to push plans for release. Have made similar representations to General Ho Chen-chun here.

Repeated to Department."

LOCKHART

393.1111 Evenson, B./1 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, October 24, 1930—3 p. m.

[Received 3:30 p. m.]

99. The following telegram has been sent to the Legation:

"October 24, 3 p. m. I have received today the following letter dated October 18, 1930, from Loshan, Honan:

'Dear Sir: Miss B. Evenson and I are at present at Loshan and held by the Chinese Communists Red Army, the First, and [which?] ask me to forward translation of their demands:

We two are held here because of financial difficulties and ask \$400,000 for our release. On one side we ask the Consulate to help, on the other to approach Chiang Kai-shek to recognize the responsibility of protecting missionaries and likewise help to have us released. Further we request the American Consulate to push this method of paying the ransom in order that we may be released at an early date. Yours sincerely, Kristofer N. Tvedt, Bergliot Evenson.

Postscript. As I'm Norwegian citizen but belonging to the American organization will you kindly notify the Norwegian Consulate. K. N. T.'

On the back of the letter there is written in Chinese the following announcement: 'It is requested that any reply be addressed to Tvedt and Evenson, care of the headquarters of the commander of the First Red Army of the Chinese Communist[s] at Kwangshui or thereabouts on the Pinghan Railway or to the addressee, care of the Protestant mission, Loshan.'

I have notified Norwegian Consulate concerning capture of Tvedt and have telegraphed General Ho Ying-chin at Chattercross [Chengchow] requesting that immediate steps be taken to effect release of Miss Evenson and have also make [made] similar requests locally of General Ho Chen-chun.

According to a letter received today from Doctor Skinsnes at Sinyang, Loshan was captured on 16th or 17th by same communist band that captured Reverend Nelson recently. Miss B. Evenson, who is registered at this Consulate under departmental approval 39311 of May 12, 1921, has a brother, O. R. Evenson, residing at 6553 Eleventh Avenue, Northwest, Seattle, Washington. Passport 82140 issued Miss Evenson August 12 [17], 1920.

Doctor Skinsnes states American Catholic Father, name unknown, escaped at Loshan by going over city wall as defending soldiers fled and bandits entered. There are two American Catholic missionaries registered at this Consulate from Loshan: namely, Reverend Thomas M. Megar, departmental approval April 4, 1928, 82601, departmental passport 82637 issued September 4, 1926; and Reverend Joseph V. Henkels of Turkey River, Iowa, departmental passport 1219C, dated September 21, 1928, father, Peter Henkels, Turkey River, Iowa. It is known that Father Megan was at Loshan October 15th.

The above missionaries have been repeatedly warned of the danger of remaining in the area affected. Repeated to the Department. Air mail to Nanking."

LOCKHART

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893.00/11267 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 24, 1930—5 p. m.  
[Received October 24—9:45 a. m.]

931. Legation's 920, October 22, 4 p. m. Following from American Consul General at Hankow:

"October 23, 4 p. m. Nanking's October 21, 1 p. m. [noon?] It is not possible to telegraph Kian nor has it been possible to do so for past 3 weeks. Outside of Filipino Sister, whose name is not known, no Americans are believed to be there. One American missionary, Miss Ida Lena Weber, whose mission station is at Kian, was in Kiukiang recently. No new developments in Kian situation today except that French Consul states no definite sum fixed for ransom. Lu Ti-ping who is here is leaving for Nanchang tonight."

JOHNSON

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393.1111 Evenson, B./2 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, October 25, 1930—11 a. m.  
[Received October 25—3:40 a. m.]

100. The following telegram has been sent to the Legation:

"October 25, 11 a. m. My October 24, 3 p. m. Telegram from Sinyangchow states Miss Evenson has been released. Nelson and Tvedt are still held.

Repeated to Department and Nanking."

LOCKHART

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393.1111 Evenson, B./5 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, October 27, 1930—3 p. m.  
[Received October 27—2:20 p. m.]

101. The following telegram has been sent to the Legation:

"October 27, 3 p. m. My October 25, 11 a. m.

Miss Evenson and Reverend Tvedt bargained for their own freedom on payment of \$3,000 Mexican, which money was supplied by Lutheran United Mission at Sinyang. Tvedt and Miss Evenson, and not the mission, assumed responsibility for payment. Miss Even-

son was promptly released but Tvedt has not been released. The bandits are now demanding \$30,000, less the [\$]3,000 already paid, for the release of Tvedt and Nelson. The bandits request me to point out to the Nanking Government that it should, as the protector of foreigners, send forth at once the sum demanded.

Reverend Nelson has been transferred to communist stronghold at Hwangan, Hupeh, and is held there.

The Filipino nun, Sister Ramos, is still held at Kian. General Lu Ti-ping has sent two divisions of troops to the relief of Kian, one of which is now near there.

I am continuing my efforts on behalf of Reverend Nelson and Sister Ramos with the provincial and local authorities.

According to a local newspaper compilation, there are now in the hands of communist bandits in this Consular district 21 foreigners, including French, Italians, British, Norwegians, Spaniards and the 2 Americans herein mentioned.

Repeated to Department."

LOCKHART

893.00/11272: Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, October 28, 1930—1 p. m.

[Received October 28—8:50 a. m.]

The following telegram has been sent to the Legation:

"October 28, 3 p. m. U. S. S. *Luzon* silenced fieldpiece on left bank of the river at mileage 166 above Hankow yesterday. Many Red troops of [*all?*] along river bank. Naval authorities report Kienli practically deserted but river quiet between that point and mileage 215.

Nanchow, Hunan, was captured by communist bandits October 22. Hwayung, Hunan, also captured, communist bandits operating area numbering 4,000 to 1,000 [*5,000?*]. Two Americans, Miss Hazel Todd and W. W. Moore, who were reported as being there are in Hsuehcheng (Anhwei) and Kuling, respectively.

Sixty-first Division arrived here yesterday and today and immediately transferred to Wuchang.

Repeated to the Department."

LOCKHART

893.00/11314

*The Consul General at Hankow (Lockhart) to the Minister in China (Johnson)*<sup>1</sup>

L. No. 1078

HANKOW, October 28, 1930.

SIR: I have the honor to refer to my despatch L. No. 1060 of September 18 [19], 1930,<sup>2a</sup> on the above mentioned subject,<sup>3</sup> and to enclose

<sup>1</sup> Copy transmitted to the Department by the Consul General in his despatch No. 1595, October 28, 1930; received December 3.

<sup>2a</sup> Not printed.

<sup>3</sup> i. e., attacks on American vessels plying the Yangtze River.

herewith, for the Legation's information, copies of correspondence exchanged between this Consulate General and local officials, as listed below <sup>8a</sup> concerning repeated attacks on American naval and merchant vessels navigating the Yangtze river.

In addition to the representations disclosed by the correspondence herewith and heretofore transmitted to the Legation, I beg to state that I have on several occasions discussed with General Ho Chen-chun and his chief-of-staff the indiscriminate firing on American vessels on the river between Hankow and Kiukiang and between Hankow and Ichang. The result of these conferences has invariably been promises on the part of the Chinese authorities to exert their utmost efforts towards suppressing the activities of those responsible for the attacks. For the past five or six days there have been no instances of the firing on foreign vessels between Hankow and Kiukiang and it is my understanding that this is due to the fact that troops were sent to that area and that they succeeded in dispersing the bands responsible for the attacks. General Ho assures me that troops are now en route to the area between Chenglingki and Shasi with a view to suppressing communist bandits in that vicinity who have been firing on passing vessels. It is hoped that the troops will succeed in their mission in these two areas, as the firing thereabouts has been particularly severe.

I have [etc.]

F. P. LOCKHART

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393.1163/450

*The Secretary of State to the Reverend J. J. Burke, General Secretary of the National Catholic Welfare Conference*<sup>9</sup>

WASHINGTON, October 29, 1930.

SIR: The Department refers to correspondence conducted with you in the past in regard to the safety and welfare of American missionaries in the interior of China. The Department has availed itself of your good offices to transmit to the interested American missionary organizations with which you have contact information regarding these matters.

At the present time, great areas, particularly in central China, are without dependable agencies for the administration of justice or even the protection of life. American citizens who continue to reside in these regions cannot escape the risks incident to this disturbed state of affairs. In fact, in some instances, they seem actually to prove an incitement to lawless action, either as furnishing a supposed means for involving the constituted authorities in difficulties with foreign nations, or as a means of possible profit through demands for ransom.

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<sup>8a</sup> Not printed.

<sup>9</sup> A similar letter was addressed to the Secretary of the Committee of Reference and Counsel of the International Missionary Council. In each case the reply was made that the information had been passed on to the organizations concerned.

The American citizens in China whose safety is most menaced by the activities of lawless elements in interior regions are, for the most part, those engaged in missionary and cultural enterprises. Information reaching the Department indicates that in many cases a great deal of liberty is allowed by the parent organizations to their representatives in China in deciding whether the missionaries concerned shall, when danger threatens, remain at their posts, or shall retire to places where they can be protected or from which they can be evacuated. In these circumstances, it has been found that members of missionary organizations are sometimes unwilling to relinquish, even temporarily, the duties entrusted to them. In response to advice from the Department's officers in China that places of safety be sought, the reply is sometimes made that the persons warned are grateful for the solicitude of their Government but that danger exists practically everywhere in China, that it attaches especially to the missionary vocation, and that the writers feel a moral obligation to remain at their posts.

The Department's purpose in addressing the present communication to you is to request that a suggestion be transmitted from the Department to the various missionary organizations concerned that the decision in regard to evacuation in the face of threatening danger be not left by them entirely to their representatives in the field. It would be gratuitous at this time to cite specific instances in which American citizens in the interior have, in the face of consular advice, chosen to incur serious risks, or to list the instances in which disregard of consular advice has resulted most unfortunately. It is the Department's desire to reiterate the suggestion previously given that American missionary organizations exert such authority as may be theirs in the matter and that the decision in regard to withdrawal from danger be left in a less degree than appears to have obtained in the past to the discretion of the persons immediately concerned.

It is sincerely hoped that missionary organizations in the United States, taking account of the difficulties in the situation and of the serious complications which injuries to American citizens cause both for and among the Chinese people and Chinese authorities themselves and for and between the American and the Chinese Governments, will take the position that it is the duty of their representatives in China to adopt all reasonable precautions to avoid capture or death and in the face of danger to err, if there seems to be doubt, on the side of caution.

The Department believes that this Government's officers in China have been and are unremitting in their efforts to provide for the safety of American citizens in their various and respective districts. These efforts will be continued.

Very truly yours,

For the Secretary of State:  
STANLEY K. HORNBECK  
*Chief, Division of Far Eastern Affairs*

393.1164/136 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 30, 1930—3 p. m.  
 [Received October 30—10:10 a. m.]

943. Hankow's mail despatch to the Legation of September 9th, copy forwarded to the Department.<sup>10</sup> Following from American Consul at Hankow:

"October 29, 3 p. m. I am glad to report that after the most persistent urging on my part the Chikungshan American school has finally been closed and removed to Hankow. The recent capture of the Americans Reverend Nelson and Miss Evenson by Communists took place near Chikungshan."

JOHNSON

893.801 Search/35

*The Chinese Minister for Foreign Affairs (C. T. Wang) to the American Minister in China (Johnson)*<sup>11</sup>

[Translation]

L-183

SIR: I have the honor to inform you that I am in receipt of a note from the Ministry of Finance reading as follows:

"In order to protect the revenue and to prevent smuggling, the Inspector-General of Customs was instructed to prepare, and has submitted *Instructions for the Guidance of Officers in Charge of Revenue Launches or Cruisers When Stopping and Searching Vessels, Foreign and Chinese, in Chinese Waters*. These Instructions have been decided upon after consideration, have been approved by Mandate, and promulgated for enforcement. These Instructions were based upon the internationally recognized procedure governing the search and pursuit of vessels violating the laws. If a vessel of whatever nationality is found to have violated Chinese law in Chinese territorial waters, the Customs launch or cruiser may pursue and seize the vessel in question and impose penalties according to law. A vessel which has been pursued in territorial waters even though she escapes to the open sea may still be followed and seized. As regards the limits of territorial waters, until they are formally fixed 3 nautical miles shall be temporarily made the boundary lines.

"It is requested that you address formal notes to the Foreign Ministers to China for their information."

I have the honor, Mr. Minister, to enclose herewith the above Instructions together with translation, each in duplicate, for your

<sup>10</sup> Not printed.

<sup>11</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 610, November 20, 1930; received December 15. A translation of the note was also transmitted to the Department in telegram 978, November 12, 1930, 1 p. m., from the Minister in China (893.801 Search/33).

information, and to request that you inform those concerned of the above.

WANG CHENG-TING

[NANKING,] October 31, 1930.

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893.1111 Nelson, Bert N./21 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, November 3, 1930—3 p. m.

[Received November 3—10:15 a. m.]

[106.] The following telegram has been sent to the Legation:

"November 3, 3 p. m. U. S. S. *Luzon* returned fire two trench mortars mileage 36 above Chenglingki yesterday.

Notwithstanding repeated representations, both orally and in writing, I fear that promises of Chinese authorities to effect early release of Reverend Nelson and Sister Ramos are most perfunctory. Troops sent east of Sinyangchow for the ostensible purpose of releasing Nelson stopped and encamped halfway to Loshan and have been there for several days on excuse that their forces are not adequate to cope with the Communists. I am pressing these two cases but I see at present no encouraging sign for early release. Repeated to Department."

LOCKHART

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195.95/86a : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, November 4, 1930—4 p. m.

379. Press correspondence dated Shanghai, October 4, states that vessels of the Yangtze Rapids Steamship Company are now carrying on upper Yangtze above Hankow Chinese guards furnished by Chinese gunboats. Please investigate and report by telegraph.

STIMSON

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893.00/11279 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, November 5, 1930—3 p. m.

[Received November 5—10:35 a. m.]

107. The following telegram has been sent to the Legation:

"November 5, 1 p. m. A widespread distribution of troops recently arrived from Honan to areas overrun with bandits and Communists indicates that at least a serious effort is being made to curb activities of these elements. Troops in large numbers have been despatched provinces Kiangsi, Northwest and North Hunan and West and North Hupeh. Military authorities here state that Loshan, Honan, has been retaken by Government forces but no word has been received

concerning Reverend Nelson. There is an unconfirmed rumor in Sinyangchow that Nelson has died of disease. Am seeking further light on report. Repeated to Department."

LOCKHART

393.11/1333

*The Minister in China (Johnson) to the Secretary of State*

No. 574

PEIPING, November 6, 1930.

[Received December 17.]

SIR: I have the honor to refer to despatch No. 16 of October 11, 1930, from the American Consul at Foochow,<sup>12</sup> copies of which have been forwarded direct to the Department, regarding the further evacuation of American citizens from the upper Min River area. The Legation has conveyed to the British Minister and, through him, to Mr. A. J. Martin, the British Consul at Foochow, its deep appreciation of the splendid action of Mr. Martin in assisting these American citizens to places of safety at considerable risk to himself.

With reference to the policy of the Consulate regarding the travel of American citizens in the Foochow Consular District as set forth by Mr. Muccio in his despatch, there is enclosed a copy of the Legation's instruction of November 6th<sup>12</sup> endorsing Mr. Muccio's stand on this matter.

Respectfully yours,

For the Minister:  
MAHLON F. PERKINS  
*Counselor of Legation*

393.11/1316 : Telegram

*The Consul General at Canton (Ballantine) to the Secretary of State*

CANTON, November 7, 1930—1 p. m.

[Received November 8—6:24 a. m.]

Referring to my telegram of October 29, 4 p. m.,<sup>12</sup> Canton Municipal Government has today received a telegram from the Chairman of the Kiangsi Provincial Government stating that instructions have been issued to appropriate military and civil authorities to provide an adequate escort to Kwangtung for Americans in Kanchow, who are now willing to evacuate.

At my suggestion, municipal office is arranging to have instruction sent by Acting Chairman of the Provincial Government to local authorities to provide adequate escort for the party from the Kwangtung border to the rail head at Shiuchow. Department and Legation and Hankow informed.

BALLANTINE

<sup>12</sup> Not printed.



195.95/87: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 8, 1930—1 p. m.

[Received November 8—3:18 a. m.]

969. Department's 379, November 4, 4 p. m. Following from the American Consul General at Hankow:

"November 7, 1 p. m. There is not one scintilla of truth in statement that Yangtze Rapids' vessels are carrying Chinese guards. American naval guards are usually supplied for voyages of the company's vessels between Hankow and Ichang under present conditions but Chinese guards have not at any time been used nor has the company even considered requesting Chinese gunboats to supply such protection."

For the Minister:

PERKINS

393.11/1318: Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, November 8, 1930—1 p. m.

[Received 1:20 p. m.]

111. The following telegram has been sent to the Legation:

"November 8, 1 p. m. The following telegram has been received today from Dr. Skinsnes and Father Megan at Sinyangchow:

'Kwangchow, Honan, endangered by Communists. Six Americans, two British, four Germans have endeavored for several weeks to evacuate but road very unsafe. Please induce Government to bring them out by airplane. Soldiers there have radio and can easily prepare map if notified of land level.'

I have telegraphed this request to General Ho Ying-chin at Chengchow and have also taken the matter up with Ho Chen-chun at Hankow. In each case I have requested military escort for foreigners concerned if their evacuation cannot be effected by airplane. Repeated to Department."

LOCKHART

893.00/11290: Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, November 10, 1930—noon.

[Received November 10—6:45 a. m.]

112. The following telegram has been sent to the Legation:

"November 10, noon. Steamship *Ifung* and lighter No. 1, both of Yangtze Rapid Company, fired upon at three different places by trench mortars and rifles on Saturday<sup>14</sup> between Chenglingki and Ichang. American naval guard on *Ifung* returned fire in each case

<sup>14</sup> November 8.

of attack on that vessel. Resumption of through passenger traffic between Hankow and Peiping announced by Railway Administration effective today. This marks first through train service between Hankow and Peiping since approximately March 15, 1930. Repeated to the Department."

LOCKHART

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393.11/1321 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, November 12, 1930—noon.

[Received 2:30 p. m.]

113. My 111, November 8, 1 p. m. The following telegram has been sent to the Legation:

"November 12, noon. My November 8, 1 p. m.

General Ho Ying-chin has replied that there is no suitable landing field at Kwangchow but that he has sent an urgent telegram to military authorities to despatch troops for the protection of the foreigners and military authorities at Kanchow ordering them to exert their efforts in the protection of foreign residents.

Troops of 13th Division are being sent today to Hwangan, Hupeh. This is the place to which Reverend Nelson is said to have been taken by bandits.

Repeated to Department and Shanghai."

LOCKHART

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893.00/11293 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, November 13, 1930—1 p. m.

[Received November 13—9:40 a. m.]

115. The following telegram has been sent to the Legation:

"November 13, 1 p. m. United States Ship *Panay* en route to Ichang to relieve U. S. S. *Tutuila* was subjected yesterday to scattered rifle fire at mileage 169 above Hankow and at mileage 171; seven shots from cannon were observed from left bank at range of 2,500 yards, and at mileage 201 two more cannon shots were observed right bank. As suitable targets not offered in any of three instances, fire was not returned. Notwithstanding 2 weeks have elapsed since bandit suppression campaign commenced, nothing has been done by Chinese authorities to clear this very accessible region of lawless element.

There has been recent revival of firing on passing vessels at point 45 miles above Wusueh. Yangtze Rapid lighter number 2 fired upon in that region day before yesterday. Captain reports Government troops on left bank engaging bandit forces on opposite bank of river. *Mei An*, Standard Oil Company vessel, also fired upon at same point day before yesterday. Repeated to the Department."

LOCKHART

893.00/11294 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, November 14, 1930—4 p. m.

[Received November 14—9:13 a. m.]

117. The following telegram has been sent to the Legation:

"November 14, 3 p. m. U.S.S. *Panay* fired upon by cannon yesterday afternoon at Temple Hill between Chenglingki and Shasi. Fire silenced with 5 rounds 3-inch shells. Standard Oil Company vessel *Mei Ping* on which Consul Clark was returning from Chungking and the Yangtze Rapid vessel *Chi Ta* as well as other vessels also fired on at Temple Hill, including His Majesty's Ship *Petrel* which replied with 32 rounds of 3-inch shells. Repeated to Department."

LOCKHART

893.801 Search/34 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, November 14, 1930—5 p. m.

394. Your 978, November 12, 1 p. m.<sup>15</sup> The Department prefers to withhold comment on the proposed procedure for the stopping and searching of vessels until it has received text of note from the Ministry of Foreign Affairs with enclosures. Pending the receipt of the Department's further instructions,<sup>16</sup> the Legation may, if circumstances warrant, inform the Chinese authorities that the Legation makes full reservation of rights granted to American citizens and shipping under the treaties. Inform the Department promptly of any action taken in connection with American vessels under the new instructions.

STIMSON

893.00/11297 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, November 18, 1930—1 p. m.

[Received November 18—9:07 a. m.]

120. The following telegram has been sent to the Legation:

"November 18, noon. U.S.S. *Tutuila* fired upon above Chenglingki yesterday by fieldpiece. Fire silenced with 21 rounds 3-inch shells. Again fired upon at mileage 249 by trench mortars and fire silenced with 5 rounds 3-inch shells and 200 rounds machine guns.

Standard Oil Company vessel *Mei Lu* and Yangtze Rapid lighter No. 2 also fired upon in same area yesterday.

Repeated to the Department."

LOCKHART

<sup>15</sup> Not printed.<sup>16</sup> No. 381, dated January 26, 1931.

893.00/11299 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, November 19, 1930—noon.  
[Received November 19—10:10 a. m.]

121. The following telegram has been sent to the Legation :

"November 19, noon. The U.S.S. *Tutuila* fired upon by rifle fire at mileage 27 above Chenglingki yesterday. Fire silenced with 27 rounds 3-inch shells and 650 rounds machine gun. Repeated to Department."

LOCKHART

493.11 Changsha/7 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, November 24, 1930—11 a. m.

402. Legation's despatch 508, October 8.<sup>17</sup>

1. Department requests that Minister Johnson report by telegraph any progress made in arriving at an understanding with the Chinese Government with regard to (a) method of assessing claims for indemnity to cover losses at Changsha and in its vicinity arising from so-called communist depredations in July and August; (b) method of payment of such claims when assessed.

2. What if any plans are being given consideration by representatives of other governments in connection with Changsha losses?

3. The Chinese authorities should be strongly urged to resume and make up arrears in payments under the Nanking settlement.<sup>18</sup>

STIMSON

393.11/1325 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 25, 1930—2 p. m.  
[Received November 25—9:15 a. m.]

1000. Legation's 955, November 2, 3 p. m.<sup>17</sup> Following from Canton :

"November 24, 5 p. m. I have just been informed by the Mayor of Canton that the Chairman of the Kwangtung Provincial Government is now in receipt of a telegram from the Chairman of the Kiangsi Provincial Government stating that the authorities have 'officially requested' American Catholic missionaries at Kanchow to evacuate and proceed to Kwangtung under escort but that missionaries declined to leave on the ground that the city is safe. Missionaries, however, requested that the authorities still extend protection."

For the Minister :

PERKINS

<sup>17</sup> Not printed.

<sup>18</sup> See *Foreign Relations*, 1929, vol. II, pp. 858 ff.

393.1111 Nelson, Bert N./29 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, November 28, 1930—2 p. m.

[Received November 28—2 p. m.]

123. The following telegram has been sent to the Legation:

"November 28, noon. Second paragraph my November 13 [17], noon.<sup>20</sup>

I received a letter today from Reverends Nelson and Tvedt, Chiling, Hwangan, Hupeh, dated November 12. Letter was written at the direction of their captors and states that the ransom is now fixed at \$30,000, less the \$3,000 already paid for the release of Miss Evenson. The following excerpt from the letter will indicate the conditions under which the two captives are living:

'It is getting more and more difficult [to] live under the conditions here. I am wearing summer clothes. The food is rice and bitter vegetables. Meat is available only occasionally. I have had no letters or news. It is cold and damp.

Our guards and headman impatiently urge us to request the immediate paying of the balance of the ransom or our lives may be forfeited.'

The letter further states representatives in the interest of the payment of ransom can safely meet representatives from the First Red Army.

A letter was also sent to me signed by the Reverends Nelson and Tvedt addressed to Ho Ying-chin reading as follows:

'We are urged to present to your good office a final appeal for ransom. They are getting impatient here because no reply has come to our former appeals.

The sum of \$30,000 is demanded for the lives of Miss Evenson, Reverend Tvedt connected with the Garret N. Nelson.<sup>21</sup> Reverend Tvedt made a loan of \$3,000 which is to be deducted from the \$30,000 asked upon the release of Miss Evenson.

Our captors and guards impatiently urge us to request the immediate paying of the balance on peril of our lives.'

I am again telegraphing General Ho Ying-chin at Chengchow urging him to take immediate steps for the release of Messrs. Nelson and Tvedt, and I am also bringing the letter to the attention of General Ho Chen-chun at Hankow. I suggest that the case be again urgently brought to the attention of the Nanking authorities through the direct representation of Minister Johnson.

Please inform Reverend D. Nelson, Progressive [North] China Union Language School, Peiping, of the above concerning the welfare of his brother.

Repeated to Department."

LOCKHART

<sup>20</sup> Not printed.

<sup>21</sup> Apparently garbled.

393.11/1326 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 30, 1930—10 a. m.

[Received November 30—5:55 a. m.]

1014. Hankow's November 8, 3 [1] p. m. Following from American Consul at Nanking:

"November 28, 3 p. m. The following is the pertinent part of a note dated November 27 from the Ministry of Foreign Affairs to the American Consulate at Nanking:

'We are in receipt of a telegraphic reply from the said Provincial Government stating that it has requested by note the commanding headquarters of the Second Army Corps to telegraph the appropriate local troops to escort foreigners out of the area and to telegraph the Huang Chuan Hsien Government to effect a rescue locally.'

Hankow informed."

For the Minister:

PERKINS

493.11 Changsha/8 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 30, 1930—11 a. m.

[Received November 30—5:55 a. m.<sup>22</sup>]

1015. The following telegram has been received from the Minister at Nanking:

"November 28, 5 p. m. Your telegram number 402, November 24, 11 a. m.

1. I saw Wang today and asked about the Changsha claims which are now in preparation. He stated he had not decided how to handle matter. Has a representative at Changsha making an investigation. Said that one question which faced him was that Changsha incident was not like Nanking incident in that latter was caused by troops under Government flag while Changsha damages were caused by troops in rebellion. He thought international law did not hold Government responsible for damages caused by rebellious soldiers. I said that my information was that forces of the Nationalist Government had retired from the city without making any defense, leaving the foreigners at the mercy of the attackers; that it was only due to the fact that we had a small gunboat there that very serious situation resulting in death of a number of defenseless American citizens had been prevented. I stated that I would report that the matter was still under investigation by the Government. I told him we would be willing to have the claims gone over by a joint commission as was the case with the Nanking claims.

2. With reference to the payments on the Nanking claims now overdue, he asks that we give them a little more time as the treasury has been depleted by the war and every effort was made by the

<sup>22</sup> Telegram in two sections.

Ministry of Finance to get where it could resume payments. He thought that in 3 or 4 months payment would be resumed."

For the Minister:  
PERKINS

393.1111 Nelson, Bert N./32 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, December 2, 1930—4 p. m.

[Received 10 p. m.]

My 123, November 28, 2 p. m. [Following to the Legation:]

"December 2, 3 p. m. My November 28, noon. General Ho has replied that he has given instructions to General Li Ming-chung to effect release of Nelson and Tvedt. I discussed the case at length today with General Ho Chen-chun, who stated that Government troops within the last 2 days have engaged communist army near Hwangan with 200 casualties on Government side and about 1,000 on other. General Ho stated that his plan now is to capture several of the leaders of the communist army and hold them as hostages for the release of the two missionaries. The General also stated that representatives recently sent to negotiate with the bandits have been detained by them and not allowed to return.

The recent capture of Kian by Government troops did not result in release of Sister Ramos and other foreign missionaries captured there by communist army early in October.

Father[s] Linehan and Laffan, two Irish priests captured last April by bandits at Sientaochen, have been released on payment by their mission of \$7,000 for both of them; and Father Fernandez, Spanish, has been released on payment of \$4,000 presumably by his mission. Repeated to Department."

LOCKHART

393.1111 Nelson, Bert N./34 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, December 5, 1930—noon.

[Received 3 p. m.]

[129.] Following telegram sent to Nanking yesterday:

"December 4, 10 a. m. Urgent for the Minister: Following telegram just received from Dr. Skinsnes at Sinyangchow:

"Letter from Tvedt and Nelson dated November 26 states that Communists now talk of [\$]5,000 in medicines or [\$]10,000 in cash. Both offer to pay all they have to obtain freedom. Would you advise an offer of [\$]13,000?"

While opposed in principle to payment of ransom I see no objection to mission or friends making offer suggested if they desire to do so. Please telegraph at once whether you concur in this view."

Following reply received this morning from Minister Johnson:

"December 4, 4 p. m. I concur since no line of action other than the one you suggest appears feasible. Inform the Department regarding inquiry, my reply and action."

Another letter was received by me yesterday afternoon, dated November 30, signed by Nelson and Tvedt stating that their captors have agreed to accept \$3,000 cash or \$5,000 in medicines for release and stipulating that money must be paid in five- and ten-dollar notes, Shanghai currency. Confidential. Mission sent \$3,000 by two trusted servants of Nelson and Tvedt this morning, one of these servants having brought the above-mentioned letter to me from near Hwangan. Legation and Nanking informed.

LOCKHART

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393.1111 Nelson, Bert N./37: Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, December 8, 1930—2 p. m.

[Received December 8—10:25 a. m.]

[130.] My 129, December 5, noon. The following telegram has been sent to the Legation:

"December 8, 2 p. m. The two servants referred to in my December 5, 11 a. m., returned to Hankow Saturday night, having succeeded in getting as far as 50 li east of Hwayuan. They report having seen heavy firing by Government troops on communist army and stated that Government forces refused to let them penetrate mile zone. One of the servants was searched by military but the other who had money secreted in his clothing was not searched. Dr. Skinsnes telegraphed on yesterday that the two servants with the money should proceed at once to Sinyangchow, where it is believed arrangements can be made for them to reach Nelson and Tvedt. The two servants left for Sinyangchow this morning as requested. I have telegraphed Dr. Skinsnes stating that I am prepared to send a consular officer to Sinyangchow tomorrow if he wishes me to do so to cooperate with him and advise in connection with effecting release of the captives. Repeated to Department."

LOCKHART

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893.00/11317: Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, December 8, 1930—5 p. m.

[Received December 8—1:20 p. m.]

The following telegram has been sent to the Legation:

"December 8, 5 p. m. *Ifung* and *Iping* of Yangtze Rapid Company heavily fired upon above and below Chenglingki on Saturday.<sup>23</sup>

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<sup>23</sup> December 6.



Standard Oil Company *Mei Lu* also fired upon and U.S.S. *Oahu*, while escorting *Iping* past point 15 miles below Chenglingki, replied to attack from ashore with 3-inch guns and machine guns discharging 11 shrapnel, 31 high explosive shells and 5 rounds machine-gun ammunition. *Oahu* reports destruction of gun emplacements ashore and 2 mortars and estimate 15 to 30 casualties ashore. No casualties on ship.

Repeat[ed] to the Department."

LOCKHART

393.1111 Nelson, Bert N./42: Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, December 9, 1930—5 p. m.

[Received December 9—1:25 p. m.]

132. My 130, December 8, 2 p. m. The following telegram has been sent to the Legation:

"December 9, 4 p. m. My December 8, 2 p. m. I sent Consul Lewis Clark to Sinyangchow this morning to cooperate with and advise Dr. Skinsnes in connection with efforts to release Reverend Nelson and his co-worker Tvedt.

Repeated to the Department."

LOCKHART

493.11 Changsha/10: Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, December 9, 1930—5 p. m.

424. Your 1025 of December 2, 4 p. m.<sup>24</sup>

1. If in your further discussion of the Changsha incident with the Chinese authorities it should appear that there is a possibility that such claims may be treated as were the Nanking claims, you may state that the Department would be willing to accept a similar arrangement for the adjudication of the Changsha claims.

2. Please keep Department informed promptly with regard to developments and any steps that are being or may be taken by other foreign governments.

STIMSON

393.11/1330: Telegram

*The Consul General at Canton (Ballantine) to the Secretary of State*

CANTON, December 12, 1930—4 p. m.

[Received December 12—9:40 a. m.]

I have received letters from American missionaries at Hoihow, Hainan, stating that an attack there by Communists is imminent,

<sup>24</sup> Not printed.

various local forces are inadequate, and that evacuation of missionaries may be necessary. A similar feeling of unrest is reflected in press despatches and in the visit of interested Chinese to the naval headquarters here requesting reinforcements.

In company with British Consul General, who is also concerned for the safety of British nationals, I called today on Admiral Chan Chak to inquire regarding the actual situation. While he professed complete confidence in the ability of the Government forces to hold Hoihow as well as Kiungchow and to protect Americans, he admitted that the garrisons there numbered only 400 and 2,000, respectively. He explained however that a regiment of 500 marines is proceeding tomorrow to Hoihow via Hong Kong to be followed subsequently by two more regiments, which force he regards sufficient to subjugate Communists completely.

Neither the British Consul General nor I were fully reassured by this interview. He is requesting the British naval authorities to send a warship to Hoihow to evacuate British subjects if necessary. I suggested a similar course to the Commander of the South China Patrol, and he is requesting authority of the Commander in Chief to send to Hoihow the destroyer *Borie*, now at Swatow.

There are at present 36 Americans at Hainan Island, and all are at Hoihow. As far as I can judge, those at places other than Hoihow are not in danger. Legation informed.

BALLANTINE

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893.00/11320 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, December 12, 1930—4 p. m.

[Received December 12—3:30 p. m.]

134. The following telegram has been sent to the Legation:

"December 12, 3 p. m. Chiang Kai-shek, who is now in Kuling, has offered a reward of 50,000 dollars for the capture of Chu, Mao, Peng and Hwang, bandit leaders in Kiangsi.

Chiang Kai-shek has ordered the dismissal, arrest and trial of General Teng, now of the new 13th Division, for failure to carry out ordinance to advance against communist army recently in occupation of Kian.

U.S.S. *Guam* was in action yesterday just below and above Chenglingki in answer to attacks from ashore by trench mortars and rifle fire. Repeated to Department."

LOCKHART

393.11/1332 : Telegram

*The Consul General at Canton (Ballantine) to the Secretary of State*

CANTON, December 15, 1930—11 a. m.

[Received December 15—10:10 a. m.]

Commander of the South China Patrol has received the following telegram from the Commander of the U.S.S. *Borie* at Hoihow:

"After investigation and consultation with leading foreign residents it has been definitely determined that there is no present danger from Communists. Communists have been dispersed and no further trouble is expected. Means of evacuation had already been provided for missionaries in the event that evacuation should have become necessary. Depredations of Communists were of minor character and at no time were the lives of foreign residents in any danger. There is no apparent desire on the part of local missionaries to evacuate. Boating conditions are such as to endanger lives and property, the anchorage being subjected to the full force of the monsoon."

*Borie* is returning today to Hong Kong.

The British sloop *Sandwich* is due to arrive on 16th at Hoihow with British Vice Consul Hall of Canton who has been instructed to make a report on the situation.

Department and Legation informed.

BALLANTINE

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393.1111 Nelson, Bert N./47 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, December 16, 1930—4 p. m.

[Received December 16—10:15 a. m.]

136. The following telegram has been sent to the Legation :

"December 16, 3 p. m. The two trusted servants who were sent from Sinyangchow with \$2,000 [~~\$3,000?~~] to vicinity of Hwangan to effect release of Nelson and Tvedt could not reach destination because of robber bands and have returned to Sinyangchow. Dr. Skinsnes is now endeavoring to send same amount through a channel having connection with 5th Red army. In the meantime ransom figure has been raised to \$10,000. Nelson and Tvedt were well, on or about December 10. Clark returned to Hankow after satisfying himself that Dr. Skinsnes is doing everything that possibly can be done to effect release. Repeated to the Department."

LOCKHART

893.00/11330 : Telegram

*The Consul General at Hankow (Lockhart) to the Secretary of State*

HANKOW, December 20, 1930—1 p. m.

[Received December 20—9:30 a. m.]

139. The following telegram has been sent to the Legation:

"December 20, 1 p. m. It is definitely established that Tsingshih, Honan, was occupied for the second time by the communist army under Ho Lung from December 1 to 9, during which time a large number of gentry and rich people were ruthlessly killed and extensive pillage and looting [apparent omission]. Standard Oil Company lost 6,000 units of oil.

Steamship *Chi Chuen* of Yangtze Rapid Company heavily fired upon at several places between Chenglingki and Shasi by rifle fire and trench mortars on 16th and 17th. Naval armed guard aboard returned fire. Vessels arriving here today in passing through same stretch of river yesterday and day before not fired upon.

Repeated to the Department."

LOCKHART

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INTERFERENCE BY THE OPPOSITION GOVERNMENT IN NORTH CHINA  
WITH THE COLLECTION OF CUSTOMS AND SALT REVENUES

893.51/5283

*The Chinese Minister for Foreign Affairs (C. T. Wang) to the American Minister in China (Johnson)* <sup>25</sup>

L-61

[Translation]

SIR: I have the honor to inform you that I am in receipt of a note from the Ministry of Railways, stating:

"Yen Hsi-shan <sup>26</sup> has instructed the Managing Director of the Shih-chiachwang-Ts'angchow Railway to float loans from foreign firms in the name of the Railway for defraying the payment of his soldiers, and is willing to include in the loan agreement the privileges of joint operation over coal and iron mining enterprises in Shensi and Shansi Provinces. You are requested to address separate formal notes to the foreign Ministers announcing in advance the repudiation of any such loans."

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<sup>25</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 200, May 13, 1930; received June 18.

<sup>26</sup> Commander in chief of the forces in Northwest China in opposition to the Government at Nanking; long-time Governor of Shansi Province.

I also received a report from the Executive Committee of the Shanghai Special Municipality stating that Feng<sup>27</sup> and Yen are floating loans from foreign merchants giving as security the income of the Chengting-T'aiyüan Branch Railway.

I have the honor to refer to a previous declaration that foreign loans shall not be valid until they have been considered and approved by the National Government. The Chinese Government will not recognize any foreign loans which Yen Hsi-shan and others are planning to float in this instance, regardless of what names they use or what security they give on government-owned enterprises or property. I have the honor, Mr. Minister, to indite this formal note for your information, and to request that your residents and merchants in China be instructed not to be misled, in order to avoid future trouble. It is also requested that I be favored with a reply.<sup>28</sup>

WANG CHENG-T'ING,  
*Minister for Foreign Affairs*  
*of the Republic of China*  
Seal of the Ministry of Foreign Affairs

[NANKING,] April 22, 1930.

893.51/5281

*Memorandum by the Minister in China (Johnson)*<sup>29</sup>

[NANKING,] May 1, 1930.

In the course of a visit to the Minister for Foreign Affairs this afternoon, the Foreign Minister told me that he desired to bring up a question with me as soon as I had finished with what I had to discuss. I told him I would be very glad to hear what he had to say and, accordingly, when our discussion of other matters was finished, he told me that what he desired to say was that the Government had understood that Governor Yen Hsi-shan was attempting to seize the Customs House and the customs revenues at Tientsin and the Government was very anxious to have my cooperation in its efforts to prevent such a seizure. He said that the Government was contemplating one or both of two methods of dealing with the situation, either it would instruct the Commissioner of Customs at Tientsin to remove customs collections from the Bank of Communications and

<sup>27</sup> Marshal Feng Yu-hsiang, deputy commander of the Northwest forces and leader of the Kuominchun (National armies).

<sup>28</sup> The Counselor of Legation in his reply dated May 8, 1930, merely acknowledged the receipt of this note.

<sup>29</sup> Copy transmitted to the Department by the Minister in his despatch No. 210, May 17, 1930; received June 18.

place them in a foreign bank "where the funds could not be seized", or they would have to blockade the port.

I asked Dr. Wang whether it was their intention to make their blockade effective or not. He stated at once that it was their intention to make the blockade effective, that this would not be a mere paper affair. I asked Dr. Wang, somewhat jokingly, "But if you make an effective blockade of Tientsin, how am I to travel from Tientsin to Nanking and return?"

His reply was, "You may travel by way of Shanhaikwan and Dairen."

I asked Dr. Wang what cooperation he expected us to give him. He stated that it was their hope that we would not oppose the measures which they proposed to take. He stated that he had informed the British Minister of their proposed action and he thought that as regards Americans, there were very few ships, if any, and that it would not be a great hardship so far as we were concerned.

I stated that I did not know the situation as regards American shipping, but that I hoped no obstacle would be placed in the free coming and going of American naval vessels to Tientsin. I understood Dr. Wang to state that this would be taken care of.

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893.00/10919

*Memorandum by the Minister in China (Johnson)*<sup>80</sup>

[Extracts]

[NANKING,] May 1, 1930.

In the course of dinner this evening at the new house of Mr. T. V. Soong, the Chinese Minister of Finance, the Minister stated that the Government felt quite confident of its ability to check the advance of the forces of Yen Hsi-shan and Feng Yu-hsiang<sup>81</sup>. . .

Something was said about the necessity for money and Mr. Soong stated that Governor Yen of Shansi was endeavoring to get the Bank of Communications to hand over to him that portion of the customs collections in excess of the sums needed for loan service. He stated that he had already instructed the Commissioner of Customs at Tientsin to transfer the deposits of Customs collections from the Bank of Communications to a foreign bank "where the money could not be touched."

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<sup>80</sup> Copy transmitted to the Department by the Minister in his despatch No. 219, May 22, 1930; received June 18.

<sup>81</sup> For other political developments, see pp. 1 ff.

893.51 Salt Funds/50 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 1, 1930—5 p. m.

[Received May 1—2 p. m.<sup>32</sup>]

296. Legation's No. 276, April 17, 5 p. m.<sup>33</sup>

1. The *Peking Leader*, which was recently taken over by the Northern authorities and is now being conducted as a propaganda organ under the editorship of Lenox Simpson,<sup>34</sup> announced today that:

"The decision arrived at last week regarding the detention of customs and salt revenues has now become effective.

As from today, May 1st, no salt revenue of any sort is transferable out of the districts under control of the northern federation until new orders are issued. The principal revenue affected is the Changlu salt, one million dollars a month, the Shanghai, Suiyuan, Chahar and other district collectorates and the distribution areas in Honan, etc.

The total revenue involved is \$2,000,000 a month of which a regular moiety was transferable month by month to Shanghai.

As regards the customs, the totals are more difficult to calculate as the whole Tientsin collections are affected, less the original 5 percent maritime tariff levies on which foreign loans and indemnities are secured. But the total exceeds \$1,000,000 a month.

The Bank of Communications act as customs bankers in Tientsin, the net receipts being transferred day by day to the credit of the Commissioner of Customs. Constant precedence [*sic*] have been passing between North China and the Shanghai banking group which was mainly responsible for financing Chiang Kai-shek and his Nanking civil service.

As a result of this exchange an absolute undertaking has been demanded that no further accommodation be granted.

This action is likely to have a decisive effect on other parts of the country which will now understand that Yen Hsi-shan is irrevocably committed to equivalent of a new government."

2. I am informed by the Consul General at Tientsin<sup>35</sup> that the salt collectorate there evidently for some time [has] been unable to remit any funds to the Central Government and that one of the foreign inspectors has proceeded to Taiyuanfu in the hope of being able to arrange a settlement. As regards the customs the Chinese authorities at Tientsin have, for the last 10 days, been exerting pressure upon the local commissioner to retain all revenues save the original 5 percent which is released for the service of foreign loans and indemnities. On April 29th a definite order to this effect was issued by the superintendent of customs but it is not yet known exactly what course the Commissioner of Customs will follow. Should he refuse to comply,

<sup>32</sup> Telegram in four sections.

<sup>33</sup> Not printed.

<sup>34</sup> B. Lenox Simpson ("Putnam Weale"), British journalist and writer.

<sup>35</sup> Clarence E. Gauss.

the customs revenues might be collected at Tangku. The collection at Tienstin (which includes Chinwangtao) last year exceeded Taels 16,000,000.

3. Should the Northern Coalition firmly carry out the policy above described, a very severe blow would be given to the whole Customs Administration even though foreign interests should not be immediately affected. It would seem certain that similar action would be taken at any other treaty ports situated in areas which the Yen-Feng combination might bring within their control. It is also not impossible that such an example might be followed in other parts of China, otherwise [*and?*] in Manchuria where the revenues in the four principal treaty ports last year exceeded Taels 20,000,000.

For the Minister :  
PERKINS

893.51/5284

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*Memorandum by the Minister in China (Johnson)*<sup>36</sup>

[NANKING,] May 2, 1930.

In the course of a conversation with Sir Miles Lampson <sup>36a</sup> today, we agreed to the comments which we would make identically on the Department's redraft of the Extraterritoriality proposals.<sup>37</sup>

I told Sir Miles that in the course of a conversation yesterday, both with the Minister for Foreign Affairs and with the Minister of Finance, I had been told that Yen Hsi-shan was endeavoring to seize the Customs revenues at Tientsin. I said that I had also been told that in case he succeeded in doing this, the Nationalist Government proposed to establish an effective blockade of the port of Tientsin. We discussed this matter for sometime. I pointed out that it seemed to me difficult for us to do anything in the matter. I stated that, so far as I was concerned, I felt that while it would be deplorable to have the Customs administration go to pieces or the trade at Tientsin stop, I did not see on what proper grounds I should protest against effective measures that the Nationalist Government might take to close the port of Tientsin if that port was occupied by parties in rebellion against the recognized government.

Suppose I protested on the ground that the Customs administration was necessary to commerce. The reply of the Chinese would be that they did not care about that as they wished to stop commerce at that particular point in order to prevent the rebellion obtaining revenues necessary to its success.

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<sup>36</sup> Copy transmitted to the Department without covering despatch; received June 19, 1930.

<sup>36a</sup> British Minister in China.

<sup>37</sup> See pp. 353 ff.



Suppose I stated that I protested on the ground that Americans desired to trade with Tientsin. The Chinese might well answer that the safety of the Government far outweighed in importance the trade that Americans might be carrying on with Tientsin.

We agreed that there was little or nothing that we could do at this time. We agreed that it might be possible to say informally to Yen Hsi-shan or his representatives, that it would be better if they would let the Customs House alone, as seizure would be bound to bring on difficulties of various sorts.

Sir Miles told me that he had instructed Aveling of his Legation at Peiping, at his discretion in case he saw Y. L. Tong, representative of Yen Hsi-shan, to mention this matter casually.

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893.51/5259 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 2, 1930—5 p. m.  
[Received May 2—1: 45 p. m.<sup>38</sup>]

299. Legation's 296, May 1, 5 p. m., paragraph 2. With reference to the detention of the customs revenues at Tientsin, Gauss has further advised the Legation as follows:

(a) Acting under instructions of General Yen Hsi-shan, the Superintendent of Customs has directed the Bank of Communications, which functions as the customs bank and located in the French Concession, to detain until further notice all customs revenues in excess of the former 5 percent detention [*tariff*?]. The Commissioner of Customs who was duly notified of this action has referred the matter to the Inspector General at Shanghai. If the Inspector General instructs the Commissioner to remit the revenues, the latter will be under the necessity of directing the customs bank to forward the funds; and the Bank of Communications, a Chinese bank, will face the problem of compliance or refusal. Although the order to the bank calls at present only for the detention of the revenues, it is anticipated that in due course a further order will require the transfer of the funds to General Yen.

(b) If the Shansi authorities are firm, it will be impossible for the bank to disregard the order of detention and it remains to be seen what action Nanking will take. The substitution of a foreign bank for the Bank of Communications would mean a great loss of face for the National Government, and any foreign bank agreeing to serve as the customs bank would be inviting difficulties both for itself and for its national authorities. If on the other hand the In-

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<sup>38</sup> Telegram in two sections.

spector General instructs the Commissioner of Customs himself to collect and hold the revenues, the Shansi authorities will be placed in a difficult position. If they seek to obtain possession of the customshouse by force, they must procure the consent of the French authorities. A solution might be found by establishing a new customshouse and a new customs organization, perhaps in the ex-German Concession.

For the Minister :  
PERKINS

893.51/5260 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 3, 1930—noon.  
[Received May 3—6:40 a. m.]

302. Legation's 299, May 2, 5 p. m. Following from Reuter, Shanghai, May schedule [2?]:

"Mr. T. V. Soong, Nanking Minister of Finance, has issued a statement saying that the attempt of the Northern[ers] to seize the additional customs revenue at Tientsin constitutes a grave threat to the integrity of the Maritime Customs and seriously jeopardizes the interest of all creditors of the Government.

The statement points out that the entire customs revenues are pledged to foreign indemnities and loans and that the old 5 percent duty is insufficient to take care of the obligation.

It says that between February and April of this year Taels 5,800,000 had to be withdrawn from the reserve for the purchase [purpose?] of meeting foreign loan obligations and that a further shortage of Taels 3,800,000 one [from?] the 5 percent revenue for foreign loans is anticipated by the end of June.

It adds that if the seizure of the 'additional' duties at Tientsin is permitted, a dangerous precedent would be established which would shatter China's credit at home and abroad. Therefore the manifest duty of the Government is to do its utmost to prevent the contemplated action of the Northerners."

For the Minister :  
PERKINS

893.51/5246 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 5, 1930—5 p. m.  
[Received 5:08 p. m.]

307. Legation's 247, April 3, 9 p. m.,<sup>39</sup> 302, May 3, noon, and mail despatch 156, April 17.<sup>40</sup> Following is the text of a letter dated May 3

<sup>39</sup> *Post*, p. 589.

<sup>40</sup> Despatch, p. 592.

addressed to the Legation by Bennett, American group representative in China of the Hukuang Railways loan grant [*group?*] banks:

"With reference to my letter of March 10 on the subject of execution [*confiscation?*] of customs charges, it is now confirmed that Marshal Yen Hsi-shan has instructed his local representatives to detain, until he arrives, all customs revenue collected at Tientsin in excess of the effective 5 percent duty. It is stated that he has no intention of infringing upon such revenues as are hypothecated for the service of indexes [*indemnities?*] and foreign loans but nevertheless the group's representatives feel that in taking this action the Shansi authorities do not fully realize the responsibilities of the Maritime Administration [*to?*] foreign obligations. They desire therefore to emphasize the danger to the interests of foreign bondholders involved in this precedent at Tientsin.

As you are aware, foreign charges on the customs revenues during the current year exceed Pounds 7,000,000 or about silver \$100,000,000 at present rates of exchange. If this precedent were to be followed elsewhere in China it is certain that the proceeds of the effective 5 percent duty would be insufficient to meet these charges which will be automatically increased on October 10 next by the additional charges for services of the Hukuang and Tientsin-Pukow Railway loan as a result of the National Government's decision to abolish likin. It should also be borne in mind that there are other important foreign obligations secured on the customs surplus.

In view of the situation as outlined above I trust that the Legation will deem it expedient to direct the attention of the responsible authorities to the serious danger to assisting [*existing?*] foreign interests involved in any interference with the normal collection and banking of the Maritime Customs revenue.

A similar letter is being addressed to [*by?*] the French, British and Japanese group representatives to their respective Legations."

For the Minister:

PERKINS

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893.51/5264 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 5, 1930—8 p. m.

[Received May 8—10:40 a. m.]

306. Legation's 299, May 2, 5 p. m. Under instructions from the Inspector General the Commissioner of Customs at Tientsin on May 3 directed the Customs Bank to turn over to him balance of all customs funds on hand. The bank declined, pleading "force majeure". The Commissioner of Customs is from today both assessing and collecting customs duties on behalf of the Central Government.

For the Minister:

PERKINS

893.51/5250 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 8, 1930—1 p. m.

[Received May 8—6:45 a. m.]

315. Legation's 307, May 5, 6 [5?] p. m. In reply to a request for an interview by the editor of the *Leader*, L. N. Chu,<sup>41</sup> representative of Yen in Peiping, made a statement which in part reads as follows:

"The only portion of the revenue which would be impounded was the moiety which had nothing to do with foreign loans and indemnities or with Chinese domestic loans the service of which had been guaranteed by the Inspector General of Customs.

That is to say it was the 'new money' which was at stake, namely, that extra amount coming in as a result of the enforcement of the National tariff—money which T. V. Soong found very useful to juggle with to pay for troops and explosives. If he had secured his own loans on it that was his lookout.

Marshal Yen Hsi-shan was absolutely determined to put a stop to this, and drastic action would be taken within a reasonable delay [*sic*] if fresh instructions were not placed in the hands of the Tientsin Commissioner of Customs from his immediate chief. Steps had been taken to convey a last warning only a few hours ago; if that warning failed there would be nothing for it but to settle the matter by other means.

He was confident that none of the Legations proposed to intervene in any way—the matter was admittedly beyond their competence and strictly concerned only China. Should however there be any foreign interference he would raise his voice and protest against any attempt to tamper with China's customs autonomy.

Dr. Chu drew attention to a telegram from a news agency declaring that in Shanghai the British-American Tobacco Company had taken up \$20,000,000 of new tobacco tax bonds. He did not personally believe the telegram. But it would be well if the British company took steps authoritatively to deny it. The British-American Tobacco Company had great interests in North China and this report of a loan had attracted great attention. Any support given at this moment to Nanking by foreign organizations would certainly react most harmfully on North China and could not be passed by. Therefore he hoped there would be immediate denial."

For the Minister:

PERKINS

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<sup>41</sup> Presumably Chu Ho-hsiang, also known as Tchou Ngao-hsiang.

893.51/5253 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 10, 1930—1 p. m.  
[Received May 10—9: 56 a. m.<sup>42</sup>]

320. Legation's 307, May 5, 6 [5?] p. m.

1. Following from the Minister at Nanking:

"May 9, 4 p. m. With reference to detention of customs funds at Tientsin, British Minister and I discussed this question on May 2nd. We agreed that in view of all taxation [*treaties?*] past and present, including present tariff treaties, we had slender grounds upon which to interfere in controversy over possession of customs collections at Tientsin. British Minister told Aveling<sup>43</sup> he might informally indicate to representative of Yen at Peiping embarrassments to Chinese as well as foreigners should Yen carry out purpose of seizing customs funds. I understand that this is all Aveling has done. I see no objection to your taking similar step, but I think we should avoid even appearance of protest in a matter [with which,] it appears to me, we are little concerned beyond our interest in facilities available to our traders.

You may desire to communicate above comments to the Department in connection with any request for instructions you may send."

2. I am replying to the Minister that pending receipt of instructions from him or from the Department I do not purpose to take any action in this matter.

3. A telegraphic communiqué made public today from Marshal Yen to Chia Ching-te, chief secretary of Shansi temporarily on duty in Peiping, and to Mr. Chu, the Marshal's diplomatic representative in Peiping, contains the following reiteration of Yen's position respecting foreign obligations secured on the customs:

"I have taken over the disposal of the Tientsin customs revenues and declare formally that all guaranteed loans will be scrupulously respected as heretofore, particularly that portion which guarantees interest and amortization of international loans."

For the Minister :  
PERKINS

893.51/5285

*The Consul General at Tientsin (Gauss) to the Minister in China (Johnson)*<sup>44</sup>

TIENTSIN, May 12, 1930.

SIR: With reference to my previous reports concerning the attempt of General Yen Hsi-shan to sequester the surplus Customs revenues

<sup>42</sup> Telegram in two sections.

<sup>43</sup> Arthur Francis Aveling, First Secretary of British Legation.

<sup>44</sup> Copy transmitted to the Department without covering despatch; received June 19, 1930.

at Tientsin, I have the honor to inform you that the system under which the Commissioner of Customs has undertaken the direct collection of the duties has been put into effect without serious difficulty and there has been no change in the situation.

It is stated here by Chinese that the Commissioner is depositing the revenues as collected in the Hongkong & Shanghai Banking Corporation. This does not, however, constitute the appointment of the British banking corporation as Customs Bank.

From Chinese sources, the Consulate-General is informed that the Shansi authorities have been making desperate efforts to persuade the Commissioner of Customs to alter his attitude and to conform to the instructions of General Yen, but the Commissioner, naturally, maintains that he must be governed by the instructions of the Inspector General of Customs.

Chinese press reports quote Shansi officials as declaring that drastic measures will, if necessary, be taken to enforce compliance with General Yen's instructions; but it is admitted that the Shansi authorities here and at Peiping are in much of a dilemma over the matter.

It is known that the possibility of the establishment of a Shansi-controlled Customs is being considered. It appears to be conceded that there is little hope of inducing the French authorities to permit the Shansi faction to enter the French Concession and take over the present Custom House.

In connection with the possible establishment of a Shansi-controlled Customs, I am informed that a financial representative of the Shansi faction inquired of the Acting Japanese Consul-General as to whether a Japanese assistant in the Custom House at Tientsin would be permitted to accept appointment as Commissioner under the Shansi regime. The Japanese Acting Consul-General tells me that he met this question by one of his own—whether a *de facto* Government had been established in the North by the faction opposing the Nanking government.

Curiously enough, the discussion amongst the Chinese as to the possible establishment of a Shansi-controlled Custom House at Tientsin seems to contemplate the opening of such an establishment in either the ex-Russian or the ex-German Concessions at Tientsin. If the Shansi-faction were desirous of establishing their own Customs, it seems to me that they could do so more effectively, and with less likelihood of foreign complications, at Tangku—at the mouth of the river—where ships entering the Hai Ho might be stopped and required to pay Customs duties before being permitted to proceed upstream to discharge. Collections would necessarily have to be made on the basis of the manifests; but even if a separate Customs is

established, it is not likely that a full appraising and examining staff could be recruited, so that the assessment of duties on the basis of the cargo manifests would likely be all that could be ordered.

If a Custom House is established in the ex-Russian or ex-German Concession, it would be necessary to require ships to berth along those areas. There is but limited berthing space along the ex-German Concession, and the situation along the ex-Russian Concession is hardly more satisfactory. At present most ships berth along the British and French Concessions.

It is the opinion here that if the Shansi faction, with or without the establishment of a Government, attempts to set up an independent Custom House, the National Government will declare the port of Tientsin closed and refuse clearance for vessels proceeding from Chinese ports to Tientsin. This might not, however, discourage ships from Japan ports and Hongkong from proceeding directly to Tientsin. A naval force would probably be required to enforce a blockade of Tientsin; and there may then arise the question of the Protocol<sup>45</sup> and open communication between Peiping and the sea.

I am informed that General Yen is continuing to instruct his officials at Peiping and Tientsin to carry out the instructions for the sequestration of the surplus Customs revenues, but the officials on the spot, confronted with the realities of the situation, find it impossible to act; the opinion is accordingly held that for the time being no move will be made. If, however, a Government is finally established at Peiping and claims recognition as the *de facto* authority, the Chinese authorities believe it will be less difficult to take action without foreign opposition and possible intervention.

The Consulate-General is continuing to watch the situation and will inform the Legation of any developments.

I have [etc.]

C. E. GAUSS

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893.51 Salt Funds/53 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 23, 1930—midnight.

[Received May 23—9:55 a. m.]

363. The Legation's 339, May 15, 6 p. m.<sup>46</sup> The Consul General at Tientsin informs me that the Shansi faction now insists that the whole of the salt revenue should be passed to its control for deposit in a bank of its selection under an agreement that the portion necessary for administration expenses will be released as required and the

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<sup>45</sup> Signed at Peking, September 7, 1901; *Foreign Relations*, 1901, Appendix (Affairs in China), pp. 312, 316.

<sup>46</sup> Not printed.

portion for loan service will be held in Peiping. The plan appears to be to deposit the salt collections in their entirety in Shansi banks.

For the Minister:

PERKINS

893.51/5265 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 24, 1930—3 p. m.

[Received May 24—9:20 a. m.<sup>47</sup>]

366. Legation's 306, May 5, 5 [8?] p. m.

1. Consul General at Tientsin reports confidentially that the Shansi authorities appear to be reviving their proposal to establish an independent customshouse at Tientsin to be located probably in the ex-German Concession (first special area). There is however some discussion of stopping ships at Tangku with the object of assessing duties at the mouth of the river.

2. Gauss adds:

"There is not sufficient space along the ex-German Concession to berth ships and discharge cargo. There is some question whether the British and French authorities would permit officers of the new Shansi controller [*controlled*] customs to function in the British and French areas where ships now are generally berthed. Force, or a display of force, might be necessary to stop ships off the ex-German Concession to require discharge of cargo and payment of duty. The ex-German Concession is within the so-called 'American military sector of Tientsin' and the presence of Chinese military forces in that area would present a delicate problem for the United States Army troops in China."

For the Minister:

PERKINS

893.51/5268 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 28, 1930—5 p. m.

[Received May 28—11:25 a. m.<sup>47</sup>]

377. 1. Legation's 296, May 1, 5 p. m., and 307, May 5, 6 [5?] p. m., and other recent communications respecting the detention of customs and salt revenues.

The following letter was received by the American Consul General, Tientsin, from the foreign district inspector of the Changlu salt district on May 26:

"This is to inform you that, acting upon the advice of my associate chief inspector Mr. Hussey-Freke, I have, yesterday, 23rd of May,

<sup>47</sup> Telegram in two sections.



issued a personal telegram to General Yen Hsi-shan, Generalissimo of the Northern forces at Taiyuanfu, requesting him to authorize immediate remittance of the monthly quotas fixed for the four salt districts of Changlu, Hotung, Chinpei and Kupei in time to meet payment of the Hukuang loan coupon due on June 3, 1930.

Your official or unofficial advice to the local authorities in this respect will greatly oblige."

The Legation has not been approached in the matter by the American group representative. Respecting fixed charge of the Hukuang Railways loan upon the salt revenue, reference is made to enclosure 1 of my despatch No. 35, February 19.<sup>50</sup>

2. I have authorized Gauss to reply that he has referred the matter to the Legation. Since the question is analogous to that of the detention of the customs funds, I propose to take no action unless the Department instructs otherwise. See Legation's No. 320, May 10, 1 p. m., paragraph 2.

For the Minister:  
PERKINS

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893.51 Salt Funds/57 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, June 12, 1930—4 p. m.

190. Your 429, June 10, 5 p. m.<sup>50</sup> 1. Department has been following with interest the Legation's reports regarding the action taken by the so-called Shansi faction in the matter of sequestering salt funds on deposit at Tientsin and regarding the efforts of the foreign district inspector to safeguard especially that portion of the revenue which should be set aside for loan services including Hukuang Railways loan.

2. Referring to the desire of the foreign district inspector that the American Consul General at Tientsin support his efforts, you are informed that the Department does not believe that it would be expedient to make representations to the northern leaders in the manner suggested. The Department is gratified to note that the northern leaders seem disposed to keep intact that portion of the salt revenues in question which should be used to meet the service of the Hukuang loan even though not permitting its release. You are informed that the Department has been notified of the receipt in the United States from China on June 3 of funds to pay certain coupons of the Hukuang Railways loan in arrears due in 1926 and 1927.

STIMSON

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<sup>50</sup> Not printed.

893.51/5268 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, June 13, 1930—5 p. m.

193. Your 377, May 28, 5 p. m., paragraph 2. Referring to the Legation's reports regarding the proposed interference by the northern leaders with the functioning of the Chinese Maritime Customs at Tientsin, the Department has noted with satisfaction that no serious complication appears to have arisen affecting either the conduct of international trade at Tientsin or such rights as American creditors may have in respect to the customs revenues. Referring to your telegram 306, May 5, 8 p. m., last sentence, you are asked to report whether the Commissioner of Customs is at present assessing and collecting customs duties and remitting them to the National Government.

STIMSON

893.51/5277 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 16, 1930—7 p. m.

[Received June 17—9:25 a. m.]

448. Department's 193, June 13, 5 p. m. American Consul at Tientsin has just informed me that Shansi authorities took over Tientsin customs today, appointing Lenox Simpson (British) as Commissioner of Customs in place of Hayley Bell (British). It is reported that Simpson demanded possession from Bell who, after some consideration, consented to turn over his office provided that he be given a document relieving him of responsibility by stating that he yielded only to force.

For the Minister :

PERKINS

893.51/5280 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 17, 1930—9 p. m.

[Received June 18—2:45 p. m.<sup>51</sup>]

459. Legation's 448, June 16, 7 p. m. Following statement was made yesterday by Dr. Tchou, Marshal Yen's representative in Peiping:

"The Tientsin customs question has been pending for over five weeks during which time every effort has been made for a peaceful solution. Marshal Yen has always objected to drastic action and

<sup>51</sup> Telegram in four sections.

declared time and again and also through me several times in our weekly interviews that he would not utilize the portion of the new increase of the customs funds he wanted to detain but simply to prevent its being remitted to the South to be utilized by his enemy. To prove the sincerity of his declaration he has even suggested that a committee be organized of Chinese and foreign bankers who shall have custody of the detained money. I on my part have also tried my best to obtain [a] satisfactory solution, and my friends, certain high foreign officials too have contributed personally their share of influence because they refuse to participate officially on account of the autonomy of the Chinese Customs Administration over which no foreign interference is permissible. However, owing to Mr. Bell's obstinacy every effort at peaceful solution has failed and now Marshal Yen is compelled to take a more determined course of action. He has therefore appointed Mr. Lenox Simpson, adviser to the Grand Headquarters of the Commander in Chief of the National Army, Navy, and Aerial forces, to take over the Tientsin Customs Administration from the hands of Mr. Bell. The following telegrams are received from Marshal Yen which I now make public:

'Dr. Tchou Ngao-hsiang, Director of the Department of Foreign Affairs:—I have appointed Mr. Lenox Simpson adviser to act concurrently as Tientsin Customs Commissioner and also ordered Salt Commissioner Lu Chin-li to assist Superintendent of Tientsin Customs Mr. Ko<sup>22</sup> and Mayor Tsui, etc., to be responsible in carrying out my orders in connection with the above appointment. We have no idea of destroying the Customs Administration. What we want is simply to attain our object, viz; to deposit the receipts from the new increase portion of the customs duties in the Bank of Communication[s] to prevent its being remitted to South to be utilized by the enemy for prolonging the war. I shall not utilize the funds in question in order to keep to my original desire. Please inform the foreign representatives and Mr. Simpson of my idea. (Signed) Yen, June 12th.'

'Dr. Tchou Ngao-hsiang, Director of the Department of Foreign Affairs:—Kindly transmit following to Mr. Simpson:

Have repeatedly notified the Tientsin Customs Commissioner Mr. Bell to stop remitting the receipts from the new increase portion of the customs duties to the South to be utilized for war purposes but so far he has not complied. It is now therefore necessary for me to remove him. I hereby appoint you to act concurrently as Tientsin Customs Commissioner. You are to proceed at once to the Tientsin customs house and to take charge of the Customs Administration and to report to me the manner in which you have effected this step. The receipts of the new increase portion of the customs duties are to be deposited as usual in the Bank of Communications none of which shall be remitted to the South in order to prevent the prolongation of the war. (Signed) Commander in Chief Yen, June 12th.'

For the Minister:  
PERKINS

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<sup>22</sup> Also known as Ke Ching-yu.

893.51/5279 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 18, 1930—noon.  
[Received June 18—9:25 a. m.<sup>53</sup>]

461. Legation's 448, June 16, 7 p. m. Following from American Consul General at Tientsin, mail despatch June 16th:

"June 16, 3 p. m. The French Consul, in whose concession the customhouse is situated, took no action on the ground that the administration of the customs is a matter in which he cannot properly interfere, unless, of course, Chinese troops should attempt to enter the French area.

Mr. Simpson's demand was made early this morning, the customhouse ceasing almost immediately to function, and the Northern appointee was installed by early afternoon. The incumbent, Deputy Commissioner of Customs, a British subject, is, it is understood, continuing his duties pending receipt of instructions from the Inspectorate General at Shanghai; in case<sup>54</sup> the Chinese staff is also still on duty, calmly [, *as might be expected,*?] because of *force majeure* or of no desire to relinquish their livelihood; and it is expected that ordinary customs business will be transacted this afternoon.

Whether or not Yen attempts to set up a new administration throughout the areas in his control, the taking over of the Tientsin customhouse cannot but mark the beginning of the disintegration of the customs representatives [*service*] and the subjection of the customs organization to the whims of local migrationists [*militarists,*?] and it is to be expected that the customs at Ch'foo, Changsha, and possibly other places, may shortly suffer a similar fate."

For the Minister:  
PERKINS

893.51/5282 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 19, 1930—11 a. m.  
[Received June 19—6:15 a. m.]

465. Legation's 462, June 18, 3 p. m.<sup>55</sup> Following from Reuters, Shanghai, June 17th:

"T. V. Soong, Minister of Finance, has made the following statement:

"The forcible seizure of the Tientsin custom[s] by agents of the militarists constitutes a serious blow to the national credit, endanger-

<sup>53</sup> Telegram in two sections.

<sup>54</sup> Two words erroneous.

<sup>55</sup> Not printed.

ing all future plans for financial rehabilitation as well as existing foreign and domestic obligations secured on the customs.

Colonel Hayley Bell has maintained the best traditions of the service in refusing to allow the disruption of the integrity of the customs. Steps are however being taken which will insure the collapse of this phase of the militarists' adventure very shortly.

This desperate act of the Northern faction in trying to destroy the only possible instrument of the national credit is a sufficient refutation of their own claim that they would very shortly be able to overthrow the National Government and establish a government of their own.'"

For the Minister:  
PERKINS

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893.51/5286 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 19, 1930—6 p. m.  
[Received June 20—10:35 a. m.<sup>56</sup>]

469. Legation's 465, June 19, 11 a. m. Following from American Consul at Tientsin, mail despatch June 18:

"I learn from a responsible Chinese source that the French police were informed in advance of the object and purpose of the visit to the customhouse on Monday<sup>57</sup> morning, and being assured that the plain-clothes men from the Bureau of Public Safety were not entering the concession to conduct police investigations or to make arrests, no objection was made to their entrance with the party.

I am very much of the opinion that the French attitude on the subject of the customs has altered recently and that where at the beginning of the controversy the French authorities were disposed to oppose any attempt to interfere with the customhouse in the French Concession, they later deemed it desirable to assume a more conciliatory attitude towards the Northern faction.

The press having reported that Mr. L. C. Arlington, a former postal commissioner, had accompanied Mr. Lenox Simpson to the customhouse and it having been suggested that Arlington was concerned in the affair and that he is an American citizen, I invited Arlington to call at the Consulate General to see me. He informed me that he was acting as the personal Chinese representative to Simpson.

Arlington admitted to me that he might substitute temporarily in any office in the customhouse should the Inspector General order the evacuation of the present staff. He might substitute for the deputy commissioner if the latter withdraws; or he might substitute for the chief tidesurveyor should that officer abandon office. But he would only do so temporarily in an effort to assist Simpson and prevent any delays in the efficient functioning of the customs.

Arlington further informed me, confidentially, that Yen Hsi-shan plans later to take over the Posts, and that he has agreed to accept an advisership under Yen when this is done.

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<sup>56</sup> Telegram in three sections.

<sup>57</sup> June 16.

Arlington stated that Simpson would not likely remain as Commissioner of Customs at Tientsin. He said that Tsinan is likely to fall at any moment and that steps would be taken immediately to take over customs at Tsingtau, Chefoo and Lungkow; that Simpson would eventually become Inspector General of Customs, replacing Mr. Maze; that Mr. Alabaster, a retired Commissioner of Customs, a British subject, now at Peiping, was prepared to come to Tientsin to take over the commissionership, etc. He stated that the 5 percent duties would continue to be remitted to Nanking or Shanghai for the service of foreign obligations secured on the customs and that the balance of the customs revenues would be retained at Tientsin in the Bank of Communications.

Arlington expressed the opinion that even if the Inspector General of Customs at Shanghai orders the Tientsin staff to withdraw, the majority would remain at their posts. He thought that some of the more senior foreign and Chinese members of the staff might feel obliged to withdraw. He stated that there was a very high percentage of Chekiang and Southern Chinese in the customs personnel, but that they appeared to be quite content to throw in their lot with the Northern allies. He admitted, however, that the position of the customs employees is a most unhappy one; their annuities are in the hands of the Inspector General; if they disobey instructions [to withdraw,] they are likely to lose such annuities unless the Northern allies become successful and take over the whole customs service, dismissing Mr. Maze."

For the Minister:  
PERKINS

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893.51/5287: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 20, 1930—4 p. m.  
[Received 4:32 p. m.]

473. Legation's 469, June 19, 6 p. m.

1. Following from Reuter, Nanking, June 19th:

"In view of Mr. Lenox Simpson's assumption of office in favor of Marshal Yen Hsi-shan's seizure of the Tientsin customs, the National Government has lodged a protest with the British Government and requested that Mr. Simpson be deported and dealt with according to law."

2. Gauss has telephoned me that Hayley Bell called this morning and officially informed him that Tientsin customs was closed and that the staff was being withdrawn. Superintendent of Customs, an adherent of Yen, was originally appointed by Nanking and has not yet been removed. Since the Superintendent of Customs is the official superior of the Commissioner of Customs, an interesting point arises as to the validity of the Commissioner's notification to the

Consul General. Gauss states that for the present he regards Tientsin as a free port although it is likely that Lenox Simpson will immediately open a new customs administration.

For the Minister:  
PERKINS

893.51/5290 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, June 20, 1930—5 p. m.  
[Received June 21—7:19 p. m.]

Following telegram sent to the Legation:

"June 20, 5 p. m. The following customs notice appears as an advertisement in today's papers issued by the Superintendent and Commissioner of Customs:

'The public is hereby notified that the National Government has issued the following:

- A. The Tientsin customshouse is to be closed temporarily.
- B. The Customs staff there is to be withdrawn.
- C. Cargo destined for Tientsin will be released upon [liquidation] of all fiscal obligations.'

Repeat[ed] to Department and Nanking."

CUNNINGHAM

893.51/5291 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 21, 1930—7 p. m.  
[Received 10:50 p. m.<sup>58</sup>]

480. Legation's 473, June 20, 4 p. m. Following telegram is being sent to the Minister at Nanking:

"Following are pertinent portions of a letter from the American Consul General at Tientsin June 20 reporting closing of Tientsin customs:

'American merchants and shipping agents raise the question of the entry and clearance of ships and cargo.

I request the instructions of the Legation in the matter.

A. As to ships. Comments [*An American*] cargo steamer is due at Taku Bar on Monday<sup>59</sup> next to discharge and load cargo. If meanwhile no customs is established and functioning with the recognition of the territorial authorities, I am of the opinion that the ship should be permitted to enter and clear in the usual way at the Consulate General and, so long as no claims against the ship for tonnage dues or customs duties are made to the Consulate General by any functioning customs authorities, no restriction should be placed on the vessel entering and clearing and discharging or loading cargo.

In my opinion the port of Tientsin being a treaty port opened to trade, it cannot be closed to trade by the withdrawal of the national customs. If the

<sup>58</sup> Telegram in five sections.

<sup>59</sup> June 23, 1930.

customs close and cease to function, the port becomes to all intents and purposes a free port. There is no obligation on the part of the foreign consular officers [*officer*] to collect or to require security for the payment of any tonnage dues or duties which might otherwise be payable by the ship or by shippers of the cargo she carries. The consular officers [*officer*] can have cognizance only of claims for duties and dues made by a functioning customs authority. Practically all shipping companies are under annual guarantees of the customs for the payment of all duty [*dues*] and duties on ships and cargo. These guarantees may be enforced directly against the shipping companies and should be no concern of the foreign consuls. Assume no reason, therefore, why I should demand of any ship before delivery of its papers any security or guarantee for the payment of any dues or duties ordinarily payable to the customhouse authorities.

My Japanese colleague informs me that he is clearing Japanese ships, but is requiring that the shipper give to the Japanese Consulate General a letter of guarantee from his Consul or a cash deposit sufficient to cover any claim to duty on the cargo.

Shippers by British vessels inform me that the British shipping companies have been advised or instructed by their Consul General to require a letter of guarantee from the foreign consular authorities, [*authority of the*] nationality of the shipper covering the duties payable on the cargo before accepting it for shipment. Request has been made of me for such a letter of guarantee in one case and the offer made to deposit with the Consulate General the amount of duty estimated to be involved.

I have declined to issue any consular letter of guarantee, with or without the deposit of the duty or any estimated duty at this Consulate General. I have informed the shipper that if he wishes to make his shipment by British vessel, he might offer the British shipping company a deposit to cover the duties or estimated duties, but that no letter of guarantee would be issued by this office to the British shipping companies [*company*] or to the British Consul General.

With reference to American shipping companies, I propose, if inquiry is made, to suggest that they may wish to consider requiring any proper guarantees or deposits directly from shippers to protect them under their annual guarantee to the Chinese Maritime Customs against any claim for duty on cargo shipped or discharged. I would not be inclined to suggest that a letter of guarantee from a foreign consul would be sufficient protection if any protection is desired.

I request to be instructed whether this attitude is approved.

[B.] If, as is probable within a few days, the customs at Tientsin is reopened by the Shansi faction, the question will arise as to whether ships and cargo should be subject to dues and duties imposed by such customs.

I am of the opinion that ships are subject to the payment of dues and duties to such *de facto* customs.

I request the Legation's instructions on this point.

My comments will follow."

For the Minister:  
PERKINS

893.51/5292: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 22, 1930—2 p. m.  
[Received June 22—6:30 a. m.]

481. Legation's 480, June 21, 7 p. m. Following telegram is being sent to the Minister at Nanking:

"June 22, 1 p. m. For the Minister: Legation's June 21, 6 p. m. Following telegrams have been sent to American Consul General at Tientsin:

'June 21, 9 p. m. Your letter yesterday. Legation approves in detail of attitude taken by you under headings A and B. Pertinent portions of letter are however being referred by telegraph to the Minister at Nanking and to Department.'



June 22, noon. Legation's June 21, 9 p. m.

(1) Legation suggests that the interested Consuls might discuss situation presented by the failure of the Tientsin customs to function with a view to exploring the possibility of a uniform attitude being taken toward questions arising during nonfunctioning interval.

(2) By your statement that "the port becomes to all intents and purposes a free port", the Legation does not understand you to mean that ships and merchants are absolved from legal obligation to pay tonnage dues and duties prescribed in the Chinese tariff law but simply that the failure of the customs to function temporarily (as conceivably might take place through fire or other natural disaster) should not operate to stop the trade of the port and that the Consular authorities should not assume any responsibility in connection with collection of duties which is a responsibility belonging to the Chinese authorities alone."

For the Minister :

PERKINS

893.51/5351

*The Consul General at Tientsin (Gauss) to the Minister in China (Johnson)*<sup>60</sup>

TIENTSIN, June 22, 1930.

SIR: I have the honor to acknowledge the receipt of the Legation's telegrams of 3 P. M. and 9 P. M. June 21st, and 12 noon, June 22d, in reference to the matter of the Tientsin Customs.

Apparently my position has not been made entirely clear to the Legation.

I am of the opinion that notwithstanding the closing of the Tientsin Customs by order of the National Government

(1) Tientsin remains an open port, and American ships and merchants are entitled to carry on their trade and should not be subject to unreasonable delays or restrictions in so doing; and

(2) There is no duty or obligation on the part of the American authorities to collect, or to require guarantees for the payment of, any Customs dues or duties.

Customs dues and duties are, under the treaties, payable at the port where the vessel enters and clears. It is the obligation of the Government to maintain a Customs administration at the port for the purpose of such collection; and if the Government deliberately closes the Custom House and removes the staff, abandoning fiscal control of the port but not closing it to trade, Tientsin becomes in effect a free port, with no restriction on the entry and departure of ships and the importation and exportation of cargo unless the authorities actually in control and exercising the functions of government at the port set up or recognize some *de facto* Customs administration replacing that of the National Government.

I do not pretend to pass on the question of the legal obligation of merchant and ship for the payment of duties and dues. I might men-

<sup>60</sup> Copy transmitted to the Department without covering despatch; received August 1, 1930.

tion that there is legal opinion here that by withdrawing its machinery for the collection of duties, the National Government has abandoned its right to the duties, which are payable, under the treaties, at the port where the cargo is discharged or shipped, as the case may be. (See Art. XXII American Treaty of 1858,<sup>61</sup> and Art. XXV of the British treaty of the same year<sup>62</sup>).

The Legation is aware that the Shansi regime has set up its own Customs regime at Tientsin and that it claims to be functioning from yesterday (Saturday) morning.

In my despatches to the Legation, I considered two questions:

1. The question of recognition of any such *de facto* Customs regime.
2. The procedure to be followed in event that the *de facto* regime was unable to function and collapsed.

On point (1) I am of the opinion that a Customs regime set up under the authority and recognized and supported by the authorities actually in control and exercising the functions of Government at Tientsin must be regarded as a *de facto* or officiating Customs provided it actually functions.

On the second point, I am of the opinion that American ships and merchants are entitled to reasonably prompt despatch of ships and clearance of their cargo. If the Shansi-appointed Customs regime is unable to function, then it seems to me that American ships and merchants are entitled to consider Tientsin a free port, and I proposed to clear American ships without any requirement for the payment, or the posting of guarantees for the payment of Customs dues and duties.

I am aware that under Article XXII of the Treaty of 1858 between the United States and China "if the Consul permits a ship to leave the port before the duties and tonnage dues are paid, he shall be responsible therefor." But I am of the opinion that the Government must maintain a Customs administration at the port for the purpose of assessing and collecting such duties, and if it closes the Customs and abandons fiscal control of the port, there is no obligation on the part of the consular officer to collect, or to require guarantees for the payment, of the dues and duties.

In further explanation of this position, I should explain that under the Customs regime in China shipping companies post annual guarantees for the payment of all dues and duties with respect to ships, and cargoes imported and exported by such ships. If there is any legal obligation for the payment of such dues and duties it may be

<sup>61</sup> Signed at Tientsin, June 18, 1858, Malloy, *Treaties, 1776-1909*, vol. I, pp. 211, 219.

<sup>62</sup> Signed at Tientsin, June 26, 1858, *British and Foreign State Papers*, vol. XLVIII, pp. 47, 52.

enforced against the shipping companies under their annual guarantees, and there is no necessity for action by the consular authorities to require further or additional guarantees.

Under these circumstances, I proposed to advise American shipping companies, if consulted, that before delivering any import cargo or receiving any export cargo they should consider the advisability of requiring adequate financial guarantees to protect themselves against any claims for dues, duties or penalties on account of such cargo delivered or accepted for export.

Having been consulted by American shipping interests, I gave this advice, believing that they should be prepared if necessary to take measures in event that no functioning *de facto* Customs regime maintains itself at the port. At the same time, I pointed out that the Shansi regime had declared the Custom House to have been reopened and functioning and I expressed the opinion that, unless otherwise instructed by my Government, I believed that it was not possible to do otherwise than to regard it as the *de facto* or officiating Customs administration of the port.

The British and Japanese consular authorities appear to have taken the view that with the closing of the Tientsin Customs by the National Government they are entitled to take upon themselves the entry and clearance of ships and permit the delivery and acceptance of cargo without reference to any question as to a *de facto* Customs regime or authority established in the port.

British and Japanese shipping companies accordingly required that merchants exporting cargo or taking delivery of import cargo must submit signed guarantees for the future payment of Customs duties if required. On advice of their consular authorities, the British and Japanese shipping companies added the requirement that such guarantees must be endorsed and sealed by the consular authorities of the nationality of the merchant importing or exporting the cargo.

As you are aware, I declined to endorse any such guarantees and suggested the acceptance of bank guarantees—the most usual form of surety in the China ports. My British colleague declined even to consider this suggestion. My Japanese colleague was apparently well disposed to the suggestion but was reminded by the British Consul-General that the system in effect had been agreed upon between the British and Japanese shipping companies after advance consultation between the British and Japanese Consuls-General.

With reference to your suggestion that the interested Consuls should discuss the situation with a view to exploring the possibility of a uniform attitude being taken, it will appear from my reports that notwithstanding the apparent disinclination of my British colleague to enter into consultation and the independent action taken by him and his Japanese colleague, I took action as Senior Consul to call a meeting

of the Consular Body on Saturday morning, June 21st. I have already reported to the Legation what transpired at that meeting. A further meeting is to be held on Monday, June 23d. I will inform the Legation promptly of the result of that meeting.

The fundamental question, in my opinion, is whether or not the Customs regime set up by the Shansi faction and recognized and supported by the territorial authorities in control and exercising the functions of government at Tientsin should be regarded as the *de facto* or officiating Customs.

I have [etc.]

C. E. GAUSS

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893.51/5292 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

[Paraphrase]

WASHINGTON, June 23, 1930—6 p. m.

207. Your 481, June 22, 1930, 2 p. m.

(1) The Japanese Counselor of Embassy Horinouchi on June 21 called at the Department under his Ambassador's instructions to inform the Department of the instructions sent by the Japanese Foreign Office to the Secretary in charge of the Peiping Japanese Legation directing him to approach the diplomatic representatives there of the Washington Conference powers with suggestions: (a) That these powers jointly address the Northern Military Coalition inviting attention to the illegality of the measures they have taken in connection with the Tientsin customhouse, and (b) that the representatives of the same powers then inform the National Government of the aforesaid action. Mr. Horinouchi observed that his Government was not hopeful that any practical result would necessarily follow the proposed joint representations, but his Government hoped that the moral effect produced thereby might serve to prevent similar interference with the Customs Administration at other ports in China. The Japanese Government pointed out that a basis may be found for the proposed action in the assurance the Chinese delegates to the Washington Conference gave that their Government did not intend to disturb the Customs Administration<sup>63</sup> (see report of the Conference, page 292).

Mr. Horinouchi then said the Japanese Government was apprehensive that, if by acquiescence the foreign powers seemed to impart legality to any action taken by the Northern Coalition at Tientsin, customhouses at other places might thereby be similarly endangered. He concluded by expressing his Government's hope that the American Government would see its way to instructing the American Legation at Peiping to take part in the joint representations proposed. He

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<sup>63</sup> See *Foreign Relations*, 1922, vol. 1, p. 353.

added that telegrams similar to the one received in Washington had been sent by the Japanese Foreign Office to the Japanese diplomatic representatives at London, Paris, Brussels, and Rome.

(2) The Department assumes that the Japanese proposal has already been forwarded, if received by the Legation, to the Minister, and his comments on the proposal are desired by the Department to be telegraphed at the earliest moment convenient.

STIMSON

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893.51 Salt Funds/61 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 23, 1930—6 p. m.  
[Received June 25—1:05 p. m.]

486. Department's 190, June 12, 4 a. m. [*p. m.*] American Consul General at Tientsin reports in despatch of June 19th that he has now received information from the Foreign District Inspector of the Chinese Government Salt Administration at Tientsin to the following effect:

"1. That under date of June 15th, General Yen Hsi-shan addressed the Inspector a telegram agreeing in principle to the release of reserved funds for the service of the foreign loans secured on the salt revenue, operating [*for the*] four northern salt districts now under his influence. The Inspector states that payment to the foreign banks is to be made as soon as the amount has been ascertained and details of the operation arranged.

2. A letter of the same date has been received from the Hopei Finance [Deputy] guaranteeing the continued maintenance of the present arrangements for the office of the Inspectorate and entrusting the District Inspectors with the continued charge of the [revenue] accounts [*account*] as previously demanded by the foreign district inspector."

Gauss adds that

"For the time being, at least, this appears to indicate the satisfactory solution of the difficulties in the matter of the Salt Administration and salt revenues. The Administration's functions remain unimpaired and provision has been made for the [release of funds for the] service of foregoing [*foreign*] loans secured on [the] salt revenues [*revenue*]."

For the Minister:  
PERKINS

893.51/5300 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 23, 1930—7 p. m.  
[Received June 25—8:05 p. m.<sup>64</sup>]

487. Legation's 481, June 22, 2 p. m. Following telegram has been sent to the Minister at Nanking:

"June 23, 7 p. m. For the Minister: Legation's June 22, 1 p. m.

1. In mail despatch June 21st American Consul General at Tientsin states that a meeting of the Consular Body was held on that date concerning the Tientsin customs and that 'discussion then turned to the question of recognition of the *de facto* customs in the event that Mr. Simpson is able to organize his staff and actually function. The personal opinion of most of the Consuls appeared to be that the customs must necessarily be recognized, but most of the consular officers indicated that they were awaiting instructions of their Government on this point. The Consuls then considered reports from Shanghai that the customs at that port require payment of Tientsin duties before clearances [*clearing*] shipments [*ships*] carrying cargo for Tientsin. Reports to American firms here state that these collections are being made with a refusal of any assurance or protection against a second assessment of the duties at Tientsin. My French colleague took occasion to point to the treaty provisions under which ships and cargo pay dues and duties at the defense [*several*] ports when [and where] they enter. He believes that any assessment of Tientsin duties at Shanghai, if followed by second assessment and demand at Tientsin, should be made the subject of protest by the powers to the National Government. I concur in his opinion. But it was not considered that the situation as it stands at the moment was such as to offer basis for joint Consular Body representations or report to the diplomatic representatives.'

2. I have discussed the foregoing questions with the British Minister. We are both in complete agreement with the views expressed by Gauss, namely, (1) that a *de facto* customs organization functioning at Tientsin must necessarily be dealt with, and (2) that a protest should be made against any attempt to assess Tientsin duties at Shanghai if thereby double duties have to be paid by foreign merchants. Any other course would seem impracticable and likely to lead to endless confusion.

Repeated to the Department."

For the Minister:

PERKINS

<sup>64</sup> Telegram in two sections.



"June 23, 11 a. m. Local Commissioner of Customs has received instructions from Inspector General to collect Tientsin customs duties at this port beginning today and issue customs clearance papers for Tientsin. Ships are to be instructed that, should authorities at Tientsin fail to recognize such clearance papers, masters should communicate with consuls at Tientsin.

Commissioner has asked for partial detail of Tientsin staff to assist in this collection, but states that this request is difficult of compliance since Northerners have threatened to discharge any foreign members of Tientsin staff who fail to remain at their posts and to execute any Chinese members."

For the Minister:  
PERKINS

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893.51/5296: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 24, 1930—3 p. m.  
[Received June 24—2:05 p. m.]

493. My 480, June 24 [21], 7 p. m., and subsequent. Following telegram has been received from the Minister:

"June 23, 11 a. m. I agree that customs at Tientsin should be dealt with as *de facto* organization but I suggest you tell Department of our views, pointing out that American cargo arriving Shanghai, destined Tientsin, will likely be required to pay two assessments, one at Shanghai, under Shanghai customs notification of June 19, 1930, principal Shanghai papers of June 20th, and one at Tientsin, under *de facto* authorities."

For the Minister:  
PERKINS

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893.51/5297: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 24, 1930—5 p. m.  
[Received June 24—2:10 p. m.<sup>68</sup>]

494. Legation's 489, June 24, 11 a. m. Following telegram has been sent to the Minister at Nanking:

"June 24, 5 p. m. For the Minister: Your June 23, 11 a. m., and Legation's June 24, 11 a. m.

1. At Diplomatic Body meeting today Japanese representative stated that Japanese Chargé d'Affaires had been instructed to inform Nanking that the Japanese Government would not consent to the collection of Tientsin duties at other ports. Japanese Government also considered that the action of the Shansi authorities contravened

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<sup>68</sup> Telegram in two sections.



promise made at the Washington Conference with regard to maintenance of Chinese Customs Administration but was of the opinion that a protest should be addressed to the Ministry of Foreign Affairs against the collection of Tientsin duties at Shanghai and other ports. British Minister thought it best to go slow with regard to any protest and said that he would not be inclined to protest against collection of duties on foreign cargo in transit at Shanghai for Tientsin unless shipping companies so desire. He also thought that if a protest were made [to] Nanking, some sort of protest should be made to Marshal Yen, since, otherwise, the Nanking Government would consider that the foreign affairs [*powers?*] representatives were taking sides.

As simply my personal opinion I concurred in the view of the Netherlands [*British?*] Minister but said that I did not know this would be the attitude of the American Minister or the Department toward a protest. It was obvious that we could not expect any result from a protest to Yen against what was already a *fait accompli*, whereas we could expect results from a protest to Nanking. If Yen should attempt to collect Shanghai duties at Tientsin we should then have good ground for protest. It seemed to me that we should oppose procedure resulting in double duties by whomsoever instituted.

2. It was finally agreed that the Senior Minister should undertake the preparation of draft protests with a view to their being sent both to Nanking and Shansi and that these should be considered on June 27th. I should be glad to receive expression of your views prior to this meeting."

For the Minister:  
PERKINS

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893.51/5299 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 25, 1930—1 p. m.  
[Received June 25—12:50 p. m.]

497. Legation's 480, June 21, 7 p. m. Following from the Minister at Nanking:

"Your June 21, 3 p. m. With reference to responsibility of consular officer for payment by ship of Chinese customs duties, I suggest that you refer matter to the Department in light of articles 13 of the treaty of 1844<sup>67</sup> and 22 of the treaty of 1858<sup>68</sup> and annual guarantees to the customs."

For the Minister:  
PERKINS

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<sup>67</sup> Signed at Wang Hiya, July 3, 1844; Miller, *Treaties*, vol. 4, pp. 559, 563.

<sup>68</sup> Signed at Tientsin, June 18, 1858, Malloy, *Treaties*, 1776-1909, vol. I, pp. 211, 219.

893.51/5301 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 25, 1930—5 p. m.  
 [Received June 26—12:05 a. m.<sup>69</sup>]

499. Legation's 489, June 24, 11 a. m. Following telegram has been sent to the Minister at Shanghai:

"June 25, 5 p. m. For the Minister: Legation's June 24, 11 a. m., to Nanking. In mail despatch June 23 American Consul General at Tientsin reports that a meeting of the Consular Body on that date discussed question of the collection of Tientsin duties at other ports. Gauss states:

'It was pointed out that under article [25] of the British treaty of Tientsin and article 22 of the American treaty of 1858, import duties are payable at the port of destination of the goods and export duties at the port of destination<sup>70</sup> shipment or lading.

Under these circumstances it is presumed that the foreign Minister[s] will be disposed to take effective measures to protest against the action of the National Government in imposing Tientsin duties at other ports, since those duties are payable only at Tientsin.

Meanwhile I have been asked by my colleagues to approach the Superintendent of Customs and represent to him verbally that under the accepted precedents of international law, when duties had once been paid in accordance with the prescribed tariffs, cargo cannot properly be subjected to a second duty levy. I am to urge the Superintendent of Customs to release, duty free, at Tientsin cargo which has been forced to pay Tientsin duties at other ports. My colleagues and I doubt whether such representations will have effect, but there is some hope that with a view to avoiding foreign complications the Shansi regime may be disposed, for the time being at least, to take a reasonable and conciliatory attitude and not subject foreign merchants to the payment of double duties, inasmuch as this would very seriously affect the trade of the port.

The Superintendent of Customs will be informed that the Consular Body has made appropriate representations to the foreign ministers on question of the collection of Tientsin duties at Shanghai and other ports and that it anticipates that efforts will be made to find an early solution of the matter."

For the Minister:  
 PERKINS

893.51/5302 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 25, 1930—6 p. m.  
 [Received June 26—6:45 a. m.<sup>71</sup>]

500. Referring to the Legation's telegram 499, June 25, 5 p. m. Following telegram has been sent to the American Minister at Shanghai:

"June 25, 6 p. m. For the Minister: Referring to the Legation's June 25, 5 p. m.

<sup>69</sup> Telegram in two sections.

<sup>70</sup> Word erroneous.

<sup>71</sup> Telegram in three sections.

1. In mail despatch June 24th American Consul [General] at Tientsin states:

'I may suggest that there is a radical solution of this question which the Shansi faction might apply and which they might adopt with considerable beneficial result in the way of political propaganda popularizing their position with both foreign and Chinese merchants and that is to accept the evidence of payment of Tientsin duties at Shanghai, pass the cargo without duty at Tientsin, and remit the evidence of payment of the duty at Shanghai as part of the remittance of the 5 percent duties for the service of foreign obligations, pointing out that as such were improperly collected at Shanghai they remain in the hands of the National Government to be applied to foreign obligations.

It is obvious that such suggestion could not properly be made by me to the Shansi regime in control of the customs, and, of course, I did not make it.'

2. Gauss reports that he visited the Superintendent of Customs June 23rd and, in accordance with the wishes of the Consular Body, laid before him the question of import duties at Tientsin on cargo which had been forced to pay Tientsin duties at Shanghai. The Superintendent maintained that the duties on such import cargo are payable at Tientsin; he placed the whole responsibility on the customs at Shanghai, saying that the Tientsin customs had no option but to impose the duties.

The injustice to foreign and Chinese merchants of double duty payments was mentioned, and the disastrous effect on trade was pointed out. Mr. Ke indicated, however, that he saw no solution of the difficulty.

Gauss then informed Ke that representations had been made in the matter by the Consuls to the foreign Ministers and that it was hoped that some solution might be found in any negotiations which the Ministers might decide to have with the customs authority at Nanking. Meanwhile, it seemed to Gauss that, at least for a limited period of time, say 10 days, while merchants were adjusting themselves and arranging for a different safeguard [*routing*] of their cargo and until the final result of the matter might become [clear,] it would seem reasonable and just to exempt such import cargo from duty at Tientsin upon the production of proof of payment of the Tientsin duty at Shanghai. The suggestion was put forward as a personal and unofficial suggestion which might appeal to Mr. Ke as just and reasonable.

After some discussion Mr. Ke indicated that he would consider making this proposal to his superiors after consultation with his colleagues at port [*Tientsin*,] but he believed that he would have to amend the proposal to provide temporary exemption from duty only and require guarantee[s] for the payment of the Tientsin duty provided no adjustment could be made with reference to the duties already collected at Shanghai.

Mr. Ke stated that he would inform the Senior Consul of any decision in the matter.

Irrespective of questions of principle involved, I am of the opinion that a very considerable degree of latitude must be permitted to the consular representatives on the ground, in their efforts to adjust pressing problems and to enable the foreign trade of Tientsin to be carried on."

For the Minister:  
PERKINS

893.51/5355

*The Consul General at Tientsin (Gauss) to the Minister in China  
(Johnson)*<sup>72</sup>

TIENTSIN, June 25, 1930.

SIR: In my despatch of yesterday's date <sup>73</sup> concerning the Tientsin Customs, I mentioned the effect of the Customs situation on the Hai Ho Conservancy Commission.

I have now the honor to inform you that at a Consular Body meeting held this morning it was agreed that the Secretary of the Conservancy Commission should be told to direct the river dues staff to return to duty at the Custom House. This staff is not a part of the Customs; it is appointed by the Conservancy, and collects river dues, international bridge tax, and the special river dues for the palliative scheme. It functions in the Custom House, calculating the dues and taxes payable for conservancy purposes. These payments due are noted on the Customs documents and the amounts are paid at the Customs bank for account of the Conservancy.

As Chairman of the Conservancy Commission, I directed the Secretary to see Mr. Simpson and explain to him the particular duties and status of the river dues staff, so that there may be no misunderstanding and no attempt to assign them to duties other than those for which they are employed and paid by the Conservancy Commission.

On the question of the status of Mr. Simpson as a member of the Board of the Conservancy, after much discussion it was finally agreed that we cannot do otherwise than accept the existing situation; that is, Mr. Simpson is regarded as *de facto* Commissioner of Customs and under these circumstances becomes a *de facto* member of the Board. The Secretary has been advised to draw his checks for funds in the usual way and take them to Mr. Simpson for signature as a member of the Board. If the Banks in which the funds are deposited decline to recognize Mr. Simpson's signature, the Senior Consul was authorized by his Colleagues to inform the Banks that in their opinion as Mr. Simpson is *de facto* Commissioner of Customs at the port he becomes *de facto* a member of the Board of the Conservancy. Inasmuch as the Secretary's signature appears on the checks and the funds are administered by the Secretary, there is no reason to believe that the Banks will decline to deliver the funds.

I have [etc.]

C. E. GAUSS

<sup>72</sup> Copy transmitted to the Department without covering despatch; received August 1, 1930.

<sup>73</sup> Despatch not printed; see telegram No. 500, June 25, 6 p. m., from the Minister in China, *supra*.

893.51/5299 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, June 26, 1930—4 p. m.

212. Your 497, June 25, 1 p. m. Referring to the Minister's reply to the Legation's telegram June 21, 3 p. m.,<sup>74</sup> and to the Legation's various telegrams regarding recent interference by the Northern leaders with the funds and administration of the Chinese Maritime Customs at Tientsin, the Department offers the following comments:

1. In the Legation's telegram 489, June 24, 11 a. m., paragraph 5, the Consul General at Tientsin refers by implication to Article 22 of the American Treaty of 1858, which places on the Consul responsibility in case he grants consular clearance before duties and tonnage dues are paid. Department does not now undertake to define the extent of this responsibility, especially if no customs office is functioning, but, if the Consul, at the request of the American shipping interests, issues consular clearance without Customs authorization, Department believes that it would be advisable that the Consul insist upon adequate guarantee against any possible claim on him for duties or dues and make it clear that neither the Consul nor this Government assumes any responsibility toward or on behalf of the ship or owners of cargo concerned.

2. Department believes that where a customs office is functioning and, so far as American interests are concerned, administers its duties in conformity with applicable treaties and regulations, such office must be dealt with by American citizens as the *de facto* customs office. The Department suggests that Article 22 of the American Treaty of 1858, which states that "Duties of import shall be paid on the discharge of the goods, and duties of export on the lading of the same", be taken as a general criterion in determining the regularity of customs duties. The Department construes Article I of the Treaty of July 25, 1928,<sup>75</sup> as annulling treaty provisions which relate to "rates of duty" and of "tonnage dues" but not as altering treaty stipulations regarding mode of payment.

3. Any attempt, whether made by regional authorities or by the National Government, to collect dues or duties in an irregular manner on the ground that there is not functioning a legally authorized customs office or on any other ground should be protested against by American diplomatic and consular officers.

4. While the Department would have preferred to await an expression of the Minister's opinion as requested in the Department's tele-

<sup>74</sup> See telegram No. 480, June 21, 7 p. m., p. 242.

<sup>75</sup> *Foreign Relations*, 1928, vol. II, p. 475.

gram June 23, 6 p. m., the matter appears urgent, in view of the impending meeting of the diplomatic representatives concerned, and the Department now authorizes the Legation to join with Legations of other interested Powers in filing protests as described in paragraph 2 above.

5. [Paraphrase.] It is realized fully by the Department that the integrity of the Customs Administration and the financial and political unity of China are threatened if local factions are allowed to obtain control of both the customs officers and the revenue which they collect. The Department does not wish the Legation, either in conjunction with other Legations or alone, to make any representations to authorities in China or any public statement at present respecting this political aspect of the question. It occurs to the Department that, in making the suggestion (which was reported to you in the Department's 207, June 23, 6 p. m.), the Japanese Government may have been acting with the Chinese Government on some prearrangement. The Department wishes this and other aspects of the matter to be discussed confidentially by the Legation with the British Minister. The disintegration of the Customs Administration would be greatly deplored by the Department, but it wishes, before any further expression is given this attitude, to have the benefit of the study and recommendations of the Legation.

6. The Department desires to follow, as far as it may seem practicable with a developing situation, the principle of cooperative action in this matter. The views of both the British and the Japanese Governments should be given full consideration. It is deemed advisable by the Department to avoid as far as possible action which may be construed to show favor between the contending Chinese authorities in the domestic struggle, and the Department believes that, with this principle kept in mind, such action as may be taken should have as motive and justification the principle of safeguarding the Chinese Customs Administration's integrity in conformity with China's existing treaty provisions and other commitments and with the principle of serving the general interest, that of China as a whole included. Any project based upon consideration of possible ultimate use of force would be viewed by the Department with disfavor. [End paraphrase.]

STIMSON

893.51/5303 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 26, 1930—5 p. m.

[Received 5:11 p. m.<sup>76</sup>]

505. Legation's 500, June 25, 6 p. m. Following telegram has been sent to the Minister at Shanghai:

"June 26, 5 p. m. For the Minister: Legation's June 25, 6 p. m. Following from American Consul General at Tientsin in mail despatch June 25:

'At a meeting of the Consular Body held this morning the British Consul General mentioned that his Legation on Monday last had made representations to Nanking that under article 25 of the treaty of Tientsin import duties and export duties are payable at Tientsin on Tientsin cargo.

The French Consul is very positive in his position that the consular representatives cannot do otherwise than accept the existing situation and recognize the officiating customs regime.

The general opinion is that if a uniform stand is taken at Tientsin, supported by the Ministers and accompanied by firm representations to Nanking, the National Government may be induced to consider compromise proposals such as those repeatedly made of re-installing the regular customs staff under a Commissioner acceptable to both the Northern faction and Nanking and depositing surplus revenue in Tientsin banks pending the outcome of the present conflict.

In my opinion the situation would likely be solved if the interested Governments could agree to make joint or identic representations to the National Government, insisting (1) that, with the action of the National Government in closing the customs at Tientsin and abandoning fiscal control of the port, the powers must of necessity advise their nationals to deal with the functioning customs regime set up at the port by the authorities there exercising the functions of government; (2) that, under the existing treaties, import and export duties are payable at the port where the cargo is discharged or loaded; and (3) that customs dues and duties having once been paid in accordance with the treaty requirements in Shanghai they may not be imposed a second time at some other port.

I believe, and it seems to be the general opinion of my colleagues, that such action on the part of the powers would do much to induce the National Government at Nanking to accept a compromise satisfactory [solution] with the Northern faction which would reestablish the Tientsin customs in proper hands and provide some means [simply] for the sequestration of the surplus revenues until the solution of the present political crisis.

British colleague stated this morning that according to his reports from Shanghai all hope of inducing the National Government to accept a compromise has not yet been abandoned, it being stated that T. V. Soong has apparently shown some inclination to consider the matter and bring it to the attention of the Government provided a proper formula can be agreed upon, differing somewhat but not materially from the proposal of the Shansi faction."

For the Minister:

PERKINS

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<sup>76</sup> Telegram in two sections.

893.51/5306 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 27, 1930—3 p. m.

[Received 9:30 p. m.<sup>77</sup>]

509. Legation's 494, June 24, 5 p. m. Following telegram has been sent to the Minister at Shanghai:

"June 27, 3 p. m. For the Minister: Legation's June 24, 5 p. m. At meeting of Diplomatic Body this morning, following draft notes, to be sent (1) to Marshal Yen and (2) to Doctor C. T. Wang were concurred in by all representatives except myself. I trust that I may be authorized as early as possible to concur in order that the notes may be despatched.

1. 'Excellency: On behalf of my interested colleagues and myself, I have the honor to advert to the change of personnel of the customs-house in Tientsin effective under Your Excellency's instructions, whereby the unity of the Customs Administration has been seriously jeopardized.

My colleagues and I feel it our duty to point out that the integrity of the Maritime Customs Administration, which has hitherto been preserved intact through long periods of civil strife, is of the first importance; not only are the entire customs revenues the cornerstone of the Chinese on which the credit of the country is built but the smooth working of the customs organization is vital to the continued prosperity of the country's trade. Any action therefore by any authority which tends to the disintegration of that organization is highly detrimental to financial and commercial interests in China whether Chinese or foreign.

The representatives of the interested powers feel constrained to point out that Your Excellency's action runs counter to the declaration of the Chinese delegation to the Washington Conference in 1922 to the effect that the Chinese Government had no intention of taking any steps which might disturb the present administration of the customs.<sup>78</sup>

In notifying Your Excellency as above I enclose herewith a copy of a note which I addressed equally on behalf of my interested colleague and myself to His Excellency Dr. Wang Cheng-ting on the subject of the levying of Tientsin duties in Shanghai and other ports.'

Number 2. 'Monsieur le Ministre: My interested colleagues and myself have taken note that a declaration has been issued stating that the Tientsin customshouse is temporarily closed; that the staff of the customshouse has been withdrawn; and that cargo destined for Tientsin will be released upon the liquidation at other ports of all fiscal obligations.

My colleagues and I have the honor to invite Your Excellency's attention to the fact that, under the treaties in force between China and the foreign powers, import duties are only payable on the landing of the goods and export duties on the shipment of the same. It is therefore not within the competence of any authorities to stipulate that import and export duties properly leviable at Tientsin shall

<sup>77</sup> Telegram in four sections.

<sup>78</sup> See *Foreign Relations*, 1922, vol. I, p. 353.



henceforward be collected at other ports; which moreover lays an unwarranted burden on the trade of foreign nationals.

The representatives of the interested powers have the honor accordingly to notify Your Excellency that they must refuse to admit any right to collect customs duties at any port not in accordance with the procedure clearly specified in the treaties. They must therefore hold the Chinese Government responsible for the refund of any double duties paid by their respective nationals under the declaration above quoted and they reserve to themselves the right to claim the remissions of such double duties from the Chinese Government. (Here insert third paragraph of the above-quoted note to Yen.)

In notifying Your Excellency as above, the aforesaid representatives have the honor to forward a copy of a communication which they are addressing to Minister for Foreign Affairs [*Marshal?*] Yen on the subject of the recent proceedings regarding the Tientsin customs.'"

For the Minister:

PERKINS

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893.51/5308 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 28, 1930—2 p. m.

[Received 6:22 p. m.]

512. Department's 212, June 26, 4 p. m. Following from the Minister at Shanghai:

"June 27, 5 p. m. Department's 207, June 23, 6 p. m., and other telegrams from the Legation regarding Tientsin customs situation.

1. Question of protesting against collection of national duties at Shanghai upon cargo landed at Shanghai and destined for Tientsin I felt to be beside the point, as custom has long existed of reexporting to Tientsin and other Chinese ports ex-warehouse Shanghai, cargo upon which duty has been paid under exemption certificate. This practice will be followed under present conditions, and question will arise as to whether Tientsin will recognize local exemption certificates issued at Shanghai and vice versa.

2. Question of right of Nationalist Government to close port of Tientsin temporarily or permanently and designate other port for purposes of collection of import duties is one upon which I am now [*not*] prepared to pass.

I suggest that it be placed before the Department for decision. Article 5 [25] of the political [*British*] treaty of 1858 does not in my opinion necessarily require that duties be paid at port of destination. Otherwise, it would have been difficult to maintain exemption certificate performed [*procedure?*].

3. Japanese Chargé Shigemitsu told me June 26th that he and British Minister had been cooperating with a view to bringing about some compromise on this question between the Nationalist Government and the Shansi faction. He said that he believed there was

some prospect of a settlement on the basis of the continued remission by Tientsin to Nanking of something equivalent to old 5 percent tariff representing amount of Tientsin collections earmarked for service of foreign loans. He said that Nanking would also insist that Shansi faction recognize that national domestic loans be treated on a parity with foreign loans; that, these points being agreed to, there would remain a sum of something over Taels 400,000 collected at Tientsin which would be handed over to the Shansi faction. Shigemitsu said that this proposal was acceptable to Nanking and that now they only awaited word of its acceptance by the Shansi faction which he expected any time.

4. Shigemitsu asked me whether I had received any instructions and I said that I had not.

5. From the above it will be apparent to the Legation and to the Department that British and Japanese are working for a compromise which would leave the Shansi faction in actual charge of collections at Tientsin.

6. Personally, I see no good purpose of making a protest on basis of Washington Conference statement of Chinese delegate, as Nationalist Government would rightly contend that they have no desire to endanger integrity of customs service. Shansi faction might well reply that it is not concerned in the matter.

7. Question of manner of customs administration seems to me to be one upon which we have no basis of right to intervene. I am of the opinion that [as far] as we are concerned and as far as Chinese legal rights are concerned, the Chinese Government could abolish the present Customs Administration in favor of some other machinery. This in fact has been done as machinery now operating is no longer the independent administration that it was under Hart and Aglen.<sup>79</sup> The present administration is merely an adjunct to the office of the Minister of Finance, the Inspector General being his employee."

For the Minister:

PERKINS

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893.51/5306 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, June 28, 1930—3 p. m.

219. Legation's 509, June 27, 3 p. m. Department authorizes concurrence.

STIMSON

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893.51/5312 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, June 28, 1930—5 p. m.

221. Department's 207, June 23, 6 p. m., and 212, June 26, 4 p. m. In compliance with the desire of the Japanese Embassy to learn the

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<sup>79</sup> Sir Robert Hart and Sir Francis Aglen, former Inspectors General.

views of this Government in regard to the suggestions of the Japanese Government presented to the Department on June 21, the Department has today handed to the Embassy a memorandum of oral statement of its views as quoted hereunder. A copy of the statement has been handed likewise to the Italian Embassy in reply to inquiry by that Embassy.

"The views of the Department of State, imparted to the American Legation at Peiping, are in substance as follows:

1. An attempt, whether by regional authorities or by the Nanking Government, to collect dues or duties in an irregular manner should be protested against.

2. The Department authorizes the Legation to join the Legations of other interested Powers in filing protests in conformity with the above principle.

3. Where a Customs office is functioning and collects dues and duties in conformity with applicable provisions of treaties and regulations, such office must be dealt with by American citizens as a *de facto* Customs office.

4. It is desired that the matter be handled in the spirit of cooperation. It is believed that any action which may be taken by way of protest against seizure of customs houses, et cetera, should be motivated on (1) the principle of safeguarding the integrity of the Chinese Customs Administration in conformity with existing treaty provisions and other commitments of China, together with (2) the principle of serving the general interest, including that of China as a whole. It is believed that reliance should be placed upon diplomatic processes."

STIMSON

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893.51/5307 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 28, 1930—5 p. m.

[Received 6:40 p. m.<sup>80</sup>]

515. Department's 212, Legation's 509, June 27, 3 p. m.

1. I am of the opinion that both as a matter of principle and on the merits of the case we are not justified in making a protest to Marshal Yen and at the meeting of the Diplomatic Body on June 24th I indicated my personal view in this regard. See my telegram 494, June 24, 5 p. m. Consensus of opinion favored addressing protests to both parties. In view of the comparatively innocuous character of the draft note to be addressed to Yen and from a desire to obtain early joint action in a protest to Nanking, I recommended that the Legation be authorized to concur in the despatch of both notes, and I feel that it is preferable to follow this course rather than to reopen the whole

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<sup>80</sup> Telegram in two sections.

question with the possibility of various courses being adopted by the several powers.

2. [Paraphrase.] The British Minister, whom I have consulted, states that he has not been enthusiastic at all about the protest to Marshal Yen, but that he deemed it advisable to concur in order to meet the wishes of the Japanese. The Japanese Government's proposal he regarded as peculiar, although he had no evidence of any prearrangement with the Chinese Government. The Minister informed me of compromise efforts. (See description in Legation's No. 512, June 28, 2 p. m.) [End paraphrase.]

For the Minister:  
PERKINS

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893.51/5309 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING [undated].

[Received June 30, 1930—10:20 a. m.]

520. Following from Reuter, Nanking, June 29:

"The Customs Administration has ordered the customs at Chinwangtao, which has heretofore been under the jurisdiction of the Tientsin customs, to be immediately transferred and placed under the control of the Shanhaikuan customs as a precautionary measure to prevent the Chinwangtao customs from being seized and utilized by Marshal Yen Hsi-shan.

The Navy Minister said that Marshal Chang Hsueh-liang has despatched the gunboat *Tinghai* belonging to the northeastern (Manchurian) naval squadron to Chinwangtao to enforce the transfer."

For the Minister:  
PERKINS

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893.51/5313 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 1, 1930—4 p. m.

[Received July 1—3:50 p. m.]

527. Department's 219, June 28, 3 p. m.

1. Following from the Minister at Shanghai:

"June 28, 6 p. m. Your June 27, 2 [3] p. m., to the Consul General, Shanghai. From the Minister: I have no objection to forwarding draft intended for Yen, but I am not convinced of the soundness of the argument used in note to C. T. Wang to the effect that duties on cargo destined for Tientsin cannot properly under the treaties be levied elsewhere.

It appears to me that it would be preferable to be silent on this point and [limit American statement to the] withdrawal of the regular

staff of the customshouse saying that this action [on] the [part of this] Government [must] result in a situation prejudicial to the maintenance of the integrity of the customs and express the hope that the Government will see its way clear to continuing the staff at Tientsin while some method is devised acceptable to both sides whereby the customs at Tientsin may continue to function and serve business during the present distressing situation."

2. In view of the urgency of the situation I telegraphed Minister Johnson that unless he objected I would inform the Senior Minister arrived today of the Department's concurrence in the two draft notes. No reply having been received I notified the Senior Minister accordingly.

For the Minister:  
PERKINS

893.51/5311 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 1, 1930—7 p. m.

[Received 7 p. m.<sup>81</sup>]

529. Legation's 527, July 1, 4 p. m. Following telegram is being sent to the Minister at Shanghai:

"1. I have notified Senior Minister of Department's concurrence in the two draft notes.

2. Following are pertinent portions of mail despatch June 26 from American Consul General at Tientsin:

"The following notification has been published this evening by Mr. B. Lenox Simpson, the *de facto* Commissioner of Customs at Tientsin:

"NOTICE. Until further notice the following procedure will be enforced in Tientsin in the case of duties payable here but which have been unlawfully collected at the port of first instance in China.

Application and examination of cargo will follow the usual practice but when the duties leviable have been assessed, instead of paying duty, a deposit covering the duties payable will be collected and a deposit receipt issued.

Thereupon it is incumbent on the merchant to take steps to recover at the port of first instance the duty illegally levied, but, failing such recovery and the whole [upon] satisfactory proof of duty payment being furnished, this office will return the deposit made on presentation by the holder of the said deposit receipt.

River dues and bridge tax will be paid as usual to the bank."

Merchants who are required to make the deposits in order to obtain delivery of their cargo will now be hastening to inquire what measures can be taken to "take steps to recover at the port of first instance the duty illegally levied" and, failing of recovery, will desire to obtain the return of the deposit made at Tientsin in as short a time as possible.

The action taken by Mr. Simpson makes a protest against a second assessment and demand for duty somewhat difficult. He will point out [that he has] only requirements of [required] a deposit and proof (1) that steps to recover at the

<sup>81</sup> Telegram in four sections.

port of first instance has [have] been taken, without success, and (2) of course proof of payment at the port of first instance.

It seems to me that the best proof of steps to recover at the port of first instance would be found in diplomatic representations to the National Government on the basis of the treaty provisions—not yet abrogated, I believe—that import duties shall be paid at the port of discharge of the cargo. Such diplomatic representations failing, the merchant here should be entitled to recover his deposit upon producing proof of actual payment of duty at the port of first instance.

Indeed it would appear to me that the Shansi regime is forcing the hand of the powers in the matter, requiring them to make the protest and attempt the recovery of the duties “unlawfully collected at the port of first instance in China” in order to avoid having their nationals penalized by payment of duty a second time at Tientsin.

This is a matter in which, in my opinion, the fullest measure of protection should be extended to American interests, who are in no way concerned in the present unfortunate civil war and should not be made the victims of the customs difficulty.’”

3. In connection with the Department's 212, June 26, 4 p. m., paragraph 3. Is it desired that the Legation instruct American Consular officers at Shanghai and other ports of first instance to support, vis-à-vis the local Commissioners of Customs, specific claims which American merchants may make for the return of any duties which may have been illegally or irregularly levied on goods destined for Tientsin?

For the Minister:  
PERKINS

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893.51/5316 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 2, 1930—7 p. m.  
[Received July 2—5:34 p. m.<sup>82</sup>]

534. Legation's 529, July 1, 7 p. m. Following telegram is being sent to the Minister at Shanghai:

“July 2, 6 p. m. For the Minister: Legation's July 1, 6 p. m.

1. Following are pertinent portions of mail despatch July 1, 1930, from American Consul General at Tientsin.

‘. . . American Steamship *Golden Horn* of the States Steamship Company has arrived today at Taku Bar and as her tonnage certificate has expired it is necessary that she obtain a new certificate at this port. Article 22 of the treaty of 1858 provides that “the tonnage duty on vessels of the United States shall be paid on their being admitted to entry”. Tonnage [dues] certificates issued in China are valid for a period of four months for entry of the ship in any Chinese port.

The *Golden Horn* is due at Shanghai about July 5th. She then proceeds to Yangtze River ports.

It is reported here that the Nationalist Government customs authorities at other ports will not recognize tonnage dues certificates issued at Tientsin and require the second payment of such dues upon entry of ships at such ports. (On the other hand, the Shansi customs regime at Tientsin is carefully observing the treaty stipulations and accepting tonnage dues certificates issued at other ports.)

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<sup>82</sup> Telegram in three sections.

Unless, meanwhile, the customs situation at Tientsin is settled by some compromise arrangement, demand will probably be made for a second payment of tonnage dues.

At the instance of the States Steamship Company, I report this matter to the Legation and request that, if the Legation considers it appropriate to do so, instructions be issued to the Consul General at Shanghai to support the protest of the master and agents of the *Golden Horn* against any attempt to impose tonnage dues a second time at Shanghai since in accordance with the treaty such dues have been paid at Tientsin and tonnage dues certificates are valid for a period of four months for entry of the ship in any China port open to trade.

It would appear that such protest would be entirely justified under paragraph 3 of the Department's message Number 204 [212] of June 26, 4 p. m. to the Legation, portions of which were communicated to me by the Legation's confidential instruction of June 28, 1930.'

2. It is suggested that Gauss' recommendation is in conformity with the Department's instruction referred to and that the Legation be authorized to instruct the Consul General at Shanghai in accordance therewith."

For the Minister:  
PERKINS

893.51/5321 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 8, 1930—11 a. m.  
[Received 12:28 p. m.]

551. Legation's 534, July 2, 7 p. m. Minister Johnson in telegram July 7, 11 a. m., has authorized the Legation to instruct Cunningham and Hankow in accordance with the Legation's telegram to him July 2, 6 p. m.

For the Minister:  
PERKINS

893.51/5322 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 8, 1930—5 p. m.  
[Received July 8—12:55 p. m.<sup>83</sup>]

554. Legation's 512, June 28, 6 [2] p. m. Following from mail despatch July 1st from Consul General at Tientsin:

"For the Shansi-controlled customs regime at Tientsin it must be stated that there has been a disposition to respect all treaty arrangements in respect to dues and duties. Tonnage dues certificates issued at all ports under National Government control have been accepted without question, and, while there was some question as to duty-free treatment of exemption certificate cargo (imported into

<sup>83</sup> Telegram in two sections.

Shanghai and other ports and later distributed to Tientsin under exemption or duty-free certificates), this cargo is being passed without levy of duties.

It is reported that proposals for a compromise settlement of the customs situation at Tientsin are now being considered by the National Government which heretofore has declined to accept any suggestion which contemplated cessation of the remittance of revenues to Shanghai to its control. The proposals are stated to contemplate the assignment of a commissioner or acting commissioner of customs acceptable to both the National Government and the Northern allied armies and provision for the deposit of surplus revenues for the time being in Tientsin banks (probably foreign banks) under appropriate custody to ensure that the funds will not be diverted to military purposes."

For the Minister:

PERKINS

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893.51/5326 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 10, 1930—4 p. m.

[Received July 10—1:34 p. m.]

560. Legation's 551, July 8, 11 a. m. Following from American Consul General at Shanghai:

"July 8, 5 p. m. The steamship *Golden Horn* of the States Steamship Company paid tonnage dues and received certificate of payment at Tientsin on June 30th. Upon entering at Shanghai the customs demanded a new payment. This office made representation to the Commissioner of Customs that the payment having been made at Tientsin the vessel was entitled to the use of the ports without other tonnage dues for a period of four months. Upon the receipt of a letter from this Consulate General claiming exemption from further payment of tonnage dues, they issued a new certificate without additional payment taking up the one issued at Tientsin. This is a valuable precedent which may be useful at other ports."

For the Minister:

PERKINS

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893.00/11135

*Memorandum by the Counselor of Legation in China (Perkins)<sup>84</sup>*

[Extract]

PEIPING, July 12, 1930.

The British Minister said that efforts which had been made to arrange or to effect a compromise of the Tientsin customs question had

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<sup>84</sup> Copy transmitted to the Department without covering despatch; received August 26, 1930.



apparently failed owing to the attitude at present adopted by Yen Hsi-shan. In talking with Dr. Chu, Yen's representative in Peiping, Sir Miles mentioned his regret at the unwillingness of Marshal Yen to compromise, saying that such a course would serve to maintain the integrity of the Chinese maritime customs and would accordingly benefit the whole of China. He also said that, if he could informally help at any time as a medium of communication, he would be glad to do so and would be prepared to return from Peitaiho for that purpose.

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893.51/5332 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 15, 1930—4 p. m.  
[Received July 15—10:10 a. m.<sup>85</sup>]

576. Legation's 459, June 17th, 9 p. m. The following statement regarding the transfer of revenue of the Maritime Customs from Tientsin to Shanghai was issued by the Tientsin customs yesterday:

"Today the first transfer of the foreign revenue to Shanghai since the new administration assumed office was made by the Tientsin customs, the sum of Hongping<sup>86</sup> Tael 320,929.71 representing the foreign revenue from 17 June to 5 July being telegraphically transferred to the Hong Kong and Shanghai Bank, Shanghai, and placed to credit of the Inspector General of Customs foreign revenue accounts. An audit certificate signed by Messrs. Thomson and Company, chartered accountants, accompanied the transfer and duplicates of this certificate will be handed to the Superintendent of Customs, the Waichiaopu in Peiping and other quarters.

Henceforth the procedure to be followed will be that every Friday foreign revenue accumulated during the previous week down to closing hour on Saturday will be transferred telegraphically to the Hong Kong and Shanghai Bank, Shanghai, for Inspector General revenue account, accompanied by a certificate of the same nature as that used on the first occasion."

For the Minister :  
PERKINS

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<sup>85</sup> Telegram in two sections.

<sup>86</sup> Tientsin tael.

893.51 Salt Funds/69

*The Consul at Tientsin (Atcheson) to the Minister in China  
(Johnson)*<sup>87</sup>

TIENTSIN, July 17, 1930.

SIR: In reply to the Legation's instruction of July 15th, concerning the release of salt funds for the payment of foreign loans secured on the salt revenue, I have the honor to state that I am now informed by the Foreign District Inspector at Tientsin that the undertaking given by the Shansi authorities in June with respect to funds earmarked for the foreign loan service in this salt district of Changlu and in the other three northern districts of Koupei (Kalgan), Chinpei (Taiyuanfu) and Hotung (Yuncheng) have not yet been fulfilled.

The Hukuang coupon was due for payment last month and the Foreign District Inspector states that he has spared no effort to claim and obtain release of the available quotas to the foreign banks in time. In his message to Marshal Yen Hsi-shan he states that he pointed out the political disadvantage which might accrue to the northern faction from defaulting on these foreign obligations with consequent harm to national credit, but although the Marshal's reply was sympathetic and gave assurance that payment would be made when due, payment has been postponed, the delay in actual release being due, in his understanding, to a division of opinion in the Bureau of Finance as to the exact figures of the share in the obligations of the northern salt districts.

The Inspector added that his proposal to the Shansi authorities is to remit to London, against the receipt of the Tientsin or Peiping Branch of the Hongkong and Shanghai Banking Corporation, whatever amount of the fixed monthly quotas has now accumulated in the four northern districts, his contention being that this gesture, although the amount is less than the total requirement, will benefit Chinese credit as a whole.

Mr. Baude requests that the Legation render assistance by way of unofficial or personal advice to Marshal Yen's Diplomatic Bureau but, in view of the Legation's instructions of May 29 and June 14th, on this subject, I am informing him merely that I have reported the matter for your consideration.

I have [etc.]

GEORGE ATCHESON, JR.

<sup>87</sup> Copy transmitted to the Department without covering despatch; received August 28, 1930.

893.51/5371

*The Minister in China (Johnson) to the Secretary of State*

No. 333

PEIPING, July 21, 1930.

[Received August 27.]

Sir: With reference to the Legation's telegrams No. 519 [509] of June 27, 3 p. m., and No. 559 of July 10, 3 p. m.,<sup>ss</sup> concerning the Tientsin customs, I have the honor to enclose herewith a copy of Diplomatic Circular No. 65, of July 18, 1930, quoting the text of the telegram addressed by Marshal Yen Hsi-shan to his representative in Peiping. This telegram is apparently intended as a reply to the note despatched by the Senior Minister to Marshal Yen, the text of which is given in the Legation's first telegram under reference.

I have [etc.]

For the Minister:

MAHLON F. PERKINS

*Counselor of Legation*

[Enclosure]

*The Senior Minister in China (Oudendijk) to Members of the  
Diplomatic Corps in China*

Circular No. 65

PEIPING, July 18, 1930.

Referring to circular no. 64 on the subject of the levying of Tientsin duties in Shanghai, the Senior Minister has the honour to circulate herewith amongst his Honourable Colleagues the text of a telegram from Marshal Yen Hsi-shan dealing with the same subject.

Translation. Telegram from Marshal Yen Hsi-shan to Dr. Chu Hsiang, Director of the Bureau of Foreign Affairs.

Very Urgent. Your secret telegram No. 5. I have received your letter which was transmitted to me by Mr. Liang. We have taken a great deal of trouble and suffered a good deal of loss to find a satisfactory solution for the question of the Tientsin Customs. This has been seen by Chinese and foreigners alike. The change of the Commissioner of Customs was an absolute necessity. The old organization of the Customs will of course be maintained. The responsibility for collecting double duties rests with Nanking, and not with us. Please transmit to the interested foreign Legations my gratitude for their kindness. I fully trust they will sympathize with my intentions.

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<sup>ss</sup> Latter not printed.

893.51/5342 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 30, 1930—3 p. m.

[Received July 30—5:58 a. m.]

634. Legation's 605, July 22, 2 p. m.<sup>89</sup> Following from American Consul at Chefoo:

"July 29, 4 p. m. Commissioner of Customs informed me this afternoon Liu Chen-nien is desirous of taking over local customhouse on his own account but was informed that such action might:

First, raise international complications:

Second, local customs staff including Commissioner would walk out;

Third, difficulty with coast lights;

Fourth, difficulty with consuls and fact that there would be difficulty of carrying on because there is no one to replace present employees."

For the Minister:

PERKINS

893.51/5362 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 20, 1930—5 p. m.

[Received August 21—9:05 a. m.<sup>90</sup>]

726. Legation's 527, July 1, 4 p. m. As indicated in the Senior Minister's circular 58, July 2, 1930,<sup>89</sup> a copy of which was forwarded to the Department without covering despatch, a note of protest respecting the seizure of the Tientsin customs was sent by the Senior Minister to the Nanking Government and to Marshal Yen Shi-shan on July 1. Dr. C. T. Wang refused to accept the note inasmuch as it was transmitted through the Senior Consul at Shanghai. (Senior Minister's circular 62, July 9th.)<sup>89</sup> Senior Minister thereupon forwarded the note by post on July 15th addressed to Dr. Wang personally. In a note of August 8th to Mr. Oudendijk, Dr. Wang states that "for reasons which I have repeatedly made known to the public" he is unable to accept the note in that form. It is understood that Wang's reasons were that the practice of the senior foreign diplomat speaking on behalf of the entire diplomatic corps should be discontinued.

Mr. Oudendijk proposes to reply in a note to be dated August 25th that he is unable to understand why his note on July 15th should have been returned. His draft concludes substantially as follows:

"The note on July 15th was not written by me in my capacity of Dean of the Diplomatic Body but in that of the senior of those Min-

<sup>89</sup> Not printed.<sup>90</sup> Telegram in two sections.

isters and Heads of Legation who are directly interested in the questions which the customs authorities in Shanghai raised when they began levying customs duties in violation of certain treaty stipulations.

Where the treaties or the interests of a number of countries are simultaneously involved it is evidently simpler that one of the diplomatic representatives should speak in the name of all than that all of them should sign the same note, although I may state here that either way will be equally agreeable to my honorable colleagues and myself.

In the present instance I refrain from again sending Your Excellency the note on [of?] July 15th as I must assume that Your Excellency has read the same."

I perceive no objection to the Senior Minister's proposed note. I wish to inquire, however, whether the Department desires me individually to forward to C. T. Wang a note of protest, in view of the fact that it appears that the first note originally contemplated in which I was authorized to join by the Department's telegram number 219, June 28, 3 p. m., cannot be delivered.

JOHNSON

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893.51/5362 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, August 23, 1930—11 a. m.

287. Your 726, August 20, 5 p. m. Department does not believe that it would be advisable for you to forward at this time an individual note of protest covering the ground of the communication quoted in the Legation's telegram 509, June 27, 3 p. m., paragraph 2, since your doing so might be held of significance in connection with the discussion between the Senior Minister and the Chinese Minister for Foreign Affairs regarding forms of correspondence. You may convey the substance of the joint note in question to the Chinese Minister for Foreign Affairs at some future appropriate time, if you deem advisable.

HACKWORTH

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893.51/5372 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 29, 1930—6 p. m.  
[Received August 29—1:45 p. m.]

766. My 726, August 20, 5 p. m. In circular of today's date the Senior Minister states that he has redrafted, after consultation with certain of his colleagues at Peitaiho, the note which he intended to despatch on August 25 as follows:

"By your private letter of 8th August, Your Excellency returned to me my note of 15th July which you stated you were unable to accept in the form in which it had been prepared.

Whilst always anxious to meet Your Excellency's wishes I am desired by my interested colleagues to state on their behalf that they reserve the right of addressing collective representations to Your Excellency's Government whenever the circumstances render it desirable that they should do so.

In the present instance, however, and in view of the time that has elapsed, I am authorized to refrain from that procedure."

2. I perceive no objection to the above revised draft which the Senior Minister intends to send to Dr. Wang on September 5th.

JOHNSON

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893.51/5373 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 30, 1930—noon.  
[Received August 30—2: 14 a. m.]

767. Legation's 473, June 20, 4 p. m. Nanking Government continues to urge the British Government to deport and punish Lenox Simpson for participating in the Tientsin customs seizure. I am confidentially informed that the British Government is opposed to taking the desired action on the ground that it is being asked to intervene in an area in which Nanking under present circumstances is not in a position itself to exercise authority.

JOHNSON

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893.51/5372 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, August 30, 1930—2 p. m.

300. Your 766, August 29, 6 p. m., paragraph 2. Department concurs.

COTTON

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893.51 Salt Funds/70 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 2, 1930—5 p. m.  
[Received October 4—9: 05 a. m.]

872. Legation's 486, June 23, 6 p. m. Following from American Consul General at Tientsin:

"According to the statement of Foreign District Inspector of the Changlu district on September 22nd he effected the remittance to Shanghai for the service of foreign loan obligations secured on the salt revenue the sum of \$649,290.20 local currency representing the

amount of the Changlu loan quotas accumulated at Tientsin since May last."

JOHNSON

893.51/5398 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 2, 1930—9 p. m.

[Received October 4—11 a. m.]

876. Legation's 852, September 25, 6 p. m.<sup>92</sup>

1. Gauss reports that Tientsin customs will revert tomorrow to the control of the regular Maritime Customs Administration, the former Deputy Commissioner taking over charge.

2. Lenox Simpson who has acted as *de facto* Customs Commissioner for the Shansi authorities was seriously wounded yesterday when attacked in his residence by two Chinese who gained entrance by purporting to be member[s] of the plenary session at Peiping. Latest reports indicate little chance of his recovery.<sup>93</sup>

JOHNSON

**EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION IN CHINA OF TAXES CONSIDERED UNFAIR TO AMERICAN TRADE \***

693.11245 Foster-McClellan Co./1

*The Minister in China (MacMurray) to the Consul General at Shanghai (Cunningham)* <sup>95</sup>

PEKING, July 19, 1929.

SIR: I beg leave to acknowledge the receipt of your despatch No. 6015, of June 20, 1929,<sup>96</sup> regarding the seizure of merchandise belonging to the Foster-McClellan Company by the Revenue Stamp Bureau. Your despatch reads in part as follows:

" . . . it is not clear whether the old procedure governing the shipment of merchandise from treaty ports existing prior to the granting of tariff autonomy is also a matter over which the Chinese authorities now have complete control without reference to the foreign powers concerned. In other words, have the Chinese authorities autonomy not only as regards tariff rates but also as regards the procedure governing the shipment of such merchandise to the interior, after the import duties have been paid?"

<sup>92</sup> *Ante*, p. 37.

<sup>93</sup> His death followed on November 11, 1930.

<sup>94</sup> Continued from *Foreign Relations*, 1929, vol. II, pp. 791-817.

<sup>95</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 2217, July 19, 1929; received August 16.

<sup>96</sup> Not printed.

In view of the fact that in Article I of the Tariff Treaty of July 25, 1928,<sup>97</sup> it was agreed that

"All provisions . . . relating to rates of duty on imports and exports of merchandise, drawbacks, *transit dues* and *tonnage dues* in China shall be annulled and become inoperative, and the principle of complete national tariff autonomy shall apply . . ." (Note: Underscoring is mine.),

the treaty provision quoted appears clearly to apply to the goods in transit seized by the Stamp Tax Office. In the absence of definite discrimination against the American firm, you should accordingly refrain from any protest in reference to the imposition of the tax or the seizure of the goods.

In your letter of June 20, 1929, to the Foster-McClellan Company at Shanghai,<sup>98</sup> you state in part that

"It is evident, therefore, that unless you secure either an Exemption Certificate or an Inward Transit Pass there will exist no grounds upon which this Consulate General or the Legation can base a protest to the Chinese authorities for levying such additional taxes as they may see fit. The fact that you cannot secure either an Inward Transit Pass or an Exemption Certificate because the quantities of toilet articles contained in the shipments in question are small (i. e. in broken cases), would not, in the opinion of this office, constitute adequate grounds upon which to base a protest."

In this regard I desire to point out that, since the new treaty provides *inter alia* that "transit dues . . . shall be annulled and become inoperative . . .", the issuance of either transit passes or exemption certificates for any shipment appears to rest with the National Government, and its refusal to issue such documents does not constitute a ground for protest. As you have pointed out in your letter to the Foster-McClellan Company, in the present case, even were the old rules in full effect, the firm would have no ground for protest, since the shipments are broken ones.

In general reference to the matter of the issuance of transit passes by the customs authorities, I would observe for your preliminary information that I am disposed to consider that protest may properly be made when goods covered by transit pass are subjected to further taxation while en route to destination. This view is based on the fact that, although transit passes are not provided for under the new tariff treaty, yet if the National Government sees fit to continue the acceptance from merchants of payment for extra-treaty documents purporting to insure goods against further inland taxation, then the Government is bound to carry out its part of the implied contract, and failure to do so may properly be made the basis of a protest by the

<sup>97</sup> *Foreign Relations*, 1928, vol. II, p. 475.

<sup>98</sup> Not printed.



Consular office concerned. I am submitting this opinion to the Department and requesting instructions, upon receipt of which I shall promptly communicate with you.

From the penultimate paragraph of your letter of June 20th to the Foster-McClellan Company, the Legation is gratified to note that the company was able at that time to effect smaller shipments by parcel post without difficulty, and that you had accordingly suggested the continuance of this practice.

I am [etc.]

J. V. A. MACMURRAY

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693.11245 Foster-McClellan Co./2

*The Secretary of State to the Minister in China (MacMurray)*

No. 1342

WASHINGTON, September 11, 1929.

SIR: The Department has received your despatch No. 2217, dated July 19, 1929,<sup>99</sup> in regard to the seizure of goods in transit belonging to the Foster-McClellan Company because of the firm's failure to affix revenue stamps to the goods seized.

The Department approves that part of your instruction to the Consul General at Shanghai of July 19, 1929,<sup>1</sup> in which you state that, in the absence of discrimination against this firm, the Consul General should refrain from any protest concerning the imposition of this stamp tax or the seizure of the goods for failure to affix the stamps.

In this general connection you refer to the issuance of transit passes by the Chinese Maritime Customs and state that you are disposed to consider that a protest may properly be made when goods which are covered by such passes are subjected to further taxation while en route to their destination. You base this view on the fact that, although transit passes are not provided for under the Tariff Treaty of July 25, 1928, between the United States and China, if the National Government continues to accept payment from merchants for documents purporting to free the goods from further inland taxation, then that Government is bound to carry out its part of the implied contract. You request the Department's instructions in this matter for the guidance of consular officers in China.

Upon this point, the Department is disposed tentatively to approve the position taken, together with the reasoning in support thereof, in your instruction under reference. However, since, the former treaty provisions having been annulled and become inoperative, the only rights to which American merchants would be entitled in the matter of freeing their goods from internal charges in transit would be such rights as arise out of a contract or an implied contract between

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<sup>99</sup> Not printed.

<sup>1</sup> *Supra*.

themselves and the Chinese Government, before instructing you definitely in the premises, the Department feels that it should be informed more precisely with regard to such contracts or implied contracts, if they exist, as have a bearing on the question. To this end you are instructed to transmit copies of such applications for inward and outward transit passes as are now in use and of such transit passes as are now issued by the Customs authorities, together with any other pertinent information which will assist the Department in determining whether, by the issuance of such passes or in any other way, the Chinese authorities enter into a contract or an implied contract with an American merchant which would entitle his goods to exemption from further inland charges in transit.

I am [etc.]

For the Secretary of State:  
NELSON TRUSLER JOHNSON

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693.11245 Foster-McClellan Co./4

*The Acting Secretary of State to the Chargé in China (Perkins)*

No. 1463

WASHINGTON, January 30, 1930.

SIR: The Department has received the Legation's despatch No. 2453 dated November 29, 1929, transmitting a copy of despatch No. 6261 dated November 20, 1929, from the American Consul General at Shanghai, enclosing copies of certain forms used in connection with the application for, and issuance of, inward and outward transit passes.<sup>2</sup>

An examination of the translation made of the inward transit pass covering foreign goods shipped to the interior shows that the Chinese authorities declare thereon that on presentation of the pass at the customs barriers en route, the shipment of goods listed in the pass will be released without further taxation. A similar declaration, although not in so definite a form, appears on the outward transit pass covering native goods purchased in the interior for shipment abroad.

In view of these declarations, the Department considers that by accepting transit dues and issuing a transit pass, the Chinese authorities enter into a contract exempting the goods covered by the pass from further inland charges in transit, and the Department concurs in the view expressed on page two of the Legation's despatch No. 2217 dated July 19, 1929,<sup>3</sup> that when goods covered by a transit pass are subjected to further taxation while en route to their destination,

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<sup>2</sup> None printed.

<sup>3</sup> Despatch not printed.

a protest may properly be made at the request of the American interest concerned.

I am [etc.]

For the Acting Secretary of State:

FRANCIS WHITE

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693.9431/42 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, April 26, 1930—6 p. m.

146. Your 265, April 12, 4 p. m.<sup>4</sup> In the opinion of this Department and of the Department of Commerce, the favored nation provisions of our tariff agreement with China entitle our trade to the benefit of any reduction in rates which may be made in treaties with or which may be accorded to any other country.

COTTON

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893.512/1030

*The Minister in China (Johnson) to the Consul General at Shanghai (Cunningham)* <sup>5</sup>

PEIPING, May 21, 1930.

SIR: The Legation has received your despatch No. 6462, of April 16, 1930, transmitting copies of an exchange of correspondence with the Liggett and Myers Tobacco Company<sup>6</sup> concerning the exemption from advertising tax of native products. The Legation does not concur in the opinion set forth in the second paragraph of your letter of April 16, 1930, addressed to the Liggett and Myers Tobacco Company, since the contention of the American Government is that American goods are not liable to the payment of taxes other or higher than those levied on either Chinese goods or the goods of any foreign national. Since a tax on advertising is an indirect tax on the goods advertised, you should, if you find that the announcement transmitted to you by the Liggett and Myers Tobacco Company on April 12th is based on fact, protest against the discrimination against American goods and endeavor to secure for American concerns treatment as favorable as that accorded to any other foreign nationals, or to Chinese.

I am [etc.]

For the Minister:

MAHLON F. PERKINS

*Counselor of Legation*

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<sup>4</sup> Not printed.

<sup>5</sup> Copy transmitted to the Department by the Minister in his despatch No. 216, May 21, 1930; received June 18.

<sup>6</sup> None printed.

893.512/1025 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 27, 1930—6 p. m.

[Received May 27—9:15 a. m.]

374. Department's No. 278, July 7, 1 [2] p. m., 1927,<sup>7</sup> last sentence, and Department's mail instruction No. 1463, January 30, third paragraph.

1. Private arrangement made by the oil companies and National Government provides that the import duty payable upon importation of kerosene and gasoline into China shall cover all inland taxation.

2. Transit passes covering such cargo and exempting goods from all taxation in transit are now being issued by the customs gratis. In issuing transit passes without charge, it is possible that the Chinese Government hopes both to make it more difficult for insurgent local governments to collect taxes upon goods in transit and at the same time to reduce the amount of rebates which might be due the oil companies in compensation for such unauthorized taxation.

3. Gauss<sup>8</sup> reports that military tax officers in northern Honan and a special kerosene tax office at Chengchow are imposing taxes on all kerosene and gasoline shipments. Does the Department feel that basis exists for protest by the Legation to *de facto* Northern authorities?

For the Minister:

PERKINS

893.512/1059

*The Minister in China (Johnson) to the Consul at Tsingtao (Dorsey)\**

PEIPING, May 29, 1930.

SIR: I beg leave to acknowledge the receipt of your despatch No. 394, of May 13, 1930,<sup>10</sup> regarding a tax upon billboards and public advertising which discriminates against foreign goods in that "advertisements which promote Chinese goods are taxed thirty per cent less" (than those promoting foreign goods). You request the Legation's instructions as to whether a protest should be made.

You are informed that the correct interpretation of Article I of the Sino-American Tariff Treaty of 1928 is that American goods shall not be subject to higher taxation in China than are the goods of the nationals of the nation most favored in this respect or of goods of the nationals of China. A protest would thus seem to be in order.

<sup>7</sup> *Foreign Relations*, 1927, vol. II, p. 393.<sup>8</sup> Clarence E. Gauss, Consul General at Tientsin.<sup>9</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 446, September 5, 1930; received October 8.<sup>10</sup> Not printed.

In this connection your attention is invited to the Legation's circular instruction No. 231, of July 7, 1924, wherewith was transmitted undated instruction No. 645 from the Department<sup>11</sup> concerning the taxation of advertisements. The Legation would appreciate receiving an expression of opinion from you as to the reasonableness of the amount of the tax to be levied, aside from the discriminatory feature already mentioned.

I am [etc.]

For the Minister:  
MAHLON F. PERKINS  
*Counselor of Legation*

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893.512/1025 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, June 5, 1930—1 p. m.

182. Your 374, May 27, 6 p. m. You are authorized in your discretion and on specific request of American interest concerned to protest to *de facto* Northern authorities if and when such authorities impose taxes on American petroleum or other products when accompanied by transit passes issued by the recognized and appropriate Chinese authorities purporting to exempt the products in question from all taxation in transit.

STIMSON

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893.512/1045

*The American Consul at Tsingtao (Dorsey) to the Chinese Mayor of the Special Municipality of Tsingtao (Ke Ching-en)*<sup>12</sup>

TSINGTAO, June 6, 1930.

Sir: I have the honor to acknowledge receipt of your communication—No. 1893 of May 17, 1930<sup>13</sup>—concerning regulations of the Tsingtao Special Municipality Controlling Advertisements.

At the suggestion of the Bureau of Public Works you have forwarded a copy of these regulations to the Consulate with the request that American citizens be notified as to their existence.

In reply, I would state that as certain articles of the Regulations have been framed without due regard to existing rights of American citizens, the Consulate is not in a position to comply with your request.

Article 15 of Chapter 1 of the Regulations submitted provides that "advertisements that promote Chinese goods are taxed 30 per cent

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<sup>11</sup> Neither printed; the Department's instruction No. 645 was dated May 7, 1924.

<sup>12</sup> Copy transmitted to the Minister in China as enclosure to despatch No. 408, June 20, 1930, from the Consul at Tsingtao; the despatch and enclosure were forwarded to the Department by the Legation without covering despatch, and received by the Department on August 28.

<sup>13</sup> Not printed.

less", that is 30 per cent less than the general scale which applies to foreign wares.

This discrimination in favor of Chinese products is contrary to the Tariff Treaty concluded between China and the United States on July 25, 1928, wherein at Article 1, the Chinese Government solemnly undertook that Americans shall not be compelled under any pretext whatever to pay in China any duties, internal charges or taxes upon their goods other or higher than those paid by goods of the nationals of China.

An attempt to exact a premium on advertising that promotes the sale of American goods in China is merely a pretext whereby an internal charge or tax may be imposed higher than that which affects goods of the nationals of China, and I am constrained to protest vigorously against the regulations which by such pretext so clearly contravene the Treaty referred to above.

Article 52 of the Regulations provides that "any articles of these regulations found to be incomplete shall be amended by the Municipal Council". It is hoped that your Honorable Council, bearing in mind the recent Treaty entered into in good faith by our respective Governments will not fail to amend the regulations so as to grant that equality of treatment to American goods intended by the Treaty.

I have [etc.]

W. RODERICK DORSEY

393.1153 Texas Co./3 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, June 14, 1930—3 p. m.

197. The Texas Company has reported that military authorities in Honan under threat of confiscation of company's goods stored in rented warehouse at Taokow have extorted silver dollars twenty-five thousand in illegal taxes. Please radio briefly circumstances and the steps taken or contemplated by the company, Consulate General and Legation.

STIMSON

393.1153 Texas Co./4 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 17, 1930—10 p. m.

[Received June 17—9:28 p. m.<sup>14</sup>]

460. Department's 197, June 14, 3 p. m.

1. This is the case reported in the Legation's 374, May 27, 6 p. m. American Consul at Tientsin has telegraphed to Yen Hsi-shan and

<sup>14</sup> Telegram in two sections.

through local officials in Honan protesting against the imposition of the special kerosene and gasoline tax on cargo in transit and maintaining that under the terms of settlement transit pass issued by the customs [on?] such goods are exempt from all taxation in transit. At the same time he has suggested to the companies that if obliged to pay, payment might be made under protest. Gauss has also protested against any attempt at confiscation of American property.

2. As authorized by the Department's 183 [182], June 5, 1 p. m., the Legation on June 7th sent a memorandum to the Diplomatic Bureau of Yen Hsi-shan's headquarters. A reply dated June 10 states that the memorandum has been referred to Marshal Yen for transmission to those concerned for investigation, action and reply.

3. Gauss reports that as result of numerous communications addressed to the Commander of the 4th Army group, Sinsiang, Honan, in charge of North Honan Kerosene Tax Bureau, it is admitted that oil cargo under transit pass going through North Honan should not be subject to the tax.

Chinese insist, however, that where cargo is transshipped in North Honan the transshipment should be effected within 7 days. Gauss is making further representations which the Legation is supporting by protest addressed to the Diplomatic Bureau at Peiping against this arbitrary ruling.

For the Minister:  
PERKINS

393.1153 Texas Co./10

*The Minister in China (Johnson) to the Consul General at Tientsin (Gauss)* <sup>15</sup>

PEIPING, July 30, 1930.

SIR: The Legation has received your despatch of July 28, 1930,<sup>16</sup> stating that a new kerosene tax bureau has been established at Tsinghua, Honan, by the Honan Provincial Government, quite distinct and apart from that set up by the Fourth Group Army at Sinsiang. It is noted that you have telegraphed the Chairman of the Honan Provincial Government at Kaifeng and to His Excellency Marshal Yen Hsi-shan, asking that steps be taken for the release of the American cargo destined for Shansi Province detained by the tax bureau at Tsinghua. The Legation deems it better not to support your representations, unless an unfavorable reply is received by you, or a lengthy delay intervenes before the receipt by you of any reply. In either of

<sup>15</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 353, July 30, 1930: received August 27.

<sup>16</sup> Not printed.

the contingencies mentioned above, the Legation will be glad to take the matter up with the local Diplomatic Bureau upon the receipt of a further request from your office.

I am [etc.]

For the Minister :  
MAHLON F. PERKINS  
Counselor of Legation

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893.512/1053

*The Minister in China (Johnson) to the Consul at Swatow (Berger)* <sup>17</sup>

PEIPING, July 31, 1930.

SIR: The Legation has received your despatch of June 20, 1930,<sup>18</sup> inquiring whether you might correctly protest against taxation in cases where there is no discrimination against American goods.

Provided that none of the commodities taxed have paid transit dues in lieu of likin, and provided there is no discrimination against American goods, you should refrain from any protest against the taxation mentioned. The Department has held that, by accepting transit dues and issuing a transit pass which purports to free the goods covered from all inland taxation en route, the Chinese Government has entered into a contract and that attempts to levy likin and inland taxes on goods covered by transit pass may properly be protested against.

I am [etc.]

For the Minister :  
MAHLON F. PERKINS  
Counselor of Legation

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893.512/1052

*The Minister in China (Johnson) to the Consul General at Tientsin (Gauss)* <sup>19</sup>

PEIPING, August 14, 1930.

SIR: With reference to your despatches of July 31st and August 11th, 1930,<sup>20</sup> concerning a goods tax on the Tchengtai <sup>21</sup> Railway, the Legation considers that, while the tax in question may actually be in the nature of a railway surcharge, the tax is clearly referred to as a goods tax. Furthermore, the tax is collected not on the basis of the freight charges but on that of the value of the goods, and it is accordingly believed that you should protest against the levy of this tax on

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<sup>17</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 363, July 31, 1930; received September 10.

<sup>18</sup> Not printed.

<sup>19</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 393, August 14, 1930; received September 10.

<sup>20</sup> Neither printed.

<sup>21</sup> Chengting to Taiyuan.



American goods covered by transit pass. In the event of your protest being ineffective, the Legation will be glad to support it by representations made to Marshal Yen's Diplomatic Bureau upon being so advised by you.

I am [etc.]

NELSON TRUSLER JOHNSON

893.512/1059

*The Consul at Tsingtao (Dorsey) to the Minister in China (Johnson)* <sup>22</sup>

No. 419

TSINGTAO, August 20, 1930.

SIR: I have the honor to refer to the Consulate's despatch No. 408 of June 20, 1930,<sup>23</sup> concerning the discriminatory tax upon public advertising imposed by the Tsingtao Special Municipality.

With this despatch, a copy of the protest lodged by this Consulate against the discriminatory feature of the tax was enclosed for the Legation's information.<sup>24</sup>

There is now transmitted for the further information of the Legation copy in translation, as well as of the Chinese version, of the reply of the Municipal Authorities to the Consulate's protest.<sup>25</sup>

The Legation will note that the Municipality finds nothing in the application of this tax which contravenes the Sino-American Tariff Treaty of 1928.

The Legation will further gather that the Municipality seeks to defend its position by reference to its obligations to promote native products, arguing that no country can legally stop the promotion of native products by another country, or claim that its nationals are being treated unequally on account of the promotion of native products.

An attitude of this nature carried to the extreme would serve as justification for internal taxation in China of any proportion upon foreign goods, provided it were imposed to promote the use of native products. The provision of the Sino-American Tariff Treaty framed to insure equality in taxation for American goods vis-à-vis Chinese products once the American wares have complied with the Customs requirements and passed the barrier of customs duty, would be nullified and as ineffective as though China had not committed itself to such equality of treatment.

Any further protest to the local Authorities in support of the general principle involved as outlined above would, it is submitted, be of no practical value, and no further comment will be made by

<sup>22</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 446, September 5, 1930; received October 8.

<sup>23</sup> Not printed.

<sup>24</sup> *Ante*, p. 280.

the Consulate unless the Legation instructs that it is desirable to do so.

The Consulate would, of course, support the protest of any particular American firm that should desire to complain against the discrimination made possible by the Municipality's Regulations.

Respectfully yours,

W. RODERICK DORSEY

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393.1153 Texas Co./11

*The American Legation in China to Marshal Yen Hsi-shan's  
Diplomatic Bureau at Peiping*<sup>25</sup>

MEMORANDUM

The American Legation presents its compliments to the Diplomatic Bureau and has the honor to state that 5,800 cases of kerosene and gasoline, shipped to Shansi by the Texas Oil Company, an American firm, are being detained by the Kerosene Tax Bureau in Tsinghua, Honan, for payment of a kerosene tax.

The American Consul General at Tientsin telegraphically requested the Chairman of the Honan Provincial Government on July 28, 1930, to instruct the tax office at Tsinghua to release the cargo, inasmuch as it was in transit to Shansi and covered by transit passes.

In its telegraphic reply of August 16, 1930, the Provincial Government stated that this matter had been referred to the Bureau of Finance and quoted that department of the Provincial Government as follows:

"Transit passes were adopted under the unequal treaties. In the 16th year of the Republic (1927) the Provincial Government decided upon their abolition and issued a circular instruction to the effect that any foreign or Chinese merchant who has made a shipment to Honan under transit passes must pay the prescribed taxes in order that the shipment may be released. This requirement has ever since been complied with, as is on record.

"The shipment of kerosene and gasoline of the Texas Company was made under the same conditions and the transit passes cannot, therefore, be considered as effective.

"It is requested that the American Consul be telegraphically advised to direct the oil company to pay the tax in accordance with the regulations."

The Provincial Government added that this statement had been confirmed on examining the archives, and requested that the Texas Company be instructed to pay the tax.

In this connection, reference is made to considerable previous correspondence on the subject of gasoline and kerosene taxes in Honan,

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<sup>25</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 419, August 25, 1930; received September 24.

and in particular to the American Legation's memorandum of June 7, 1930,<sup>27</sup> in which it was pointed out that shipments covered by transit passes issued by the Chinese Maritime Customs were not legally subject to further inland taxation.

The Diplomatic Bureau was good enough to bring this matter to the attention of His Excellency, Marshal Yen Hsi-shan, and as a result cargo covered by transit passes has been moving freely through Honan. The detention of this shipment of the Texas Company is, therefore, surprising, as is the position assumed by the Provincial Government with respect to transit passes in general.

With a view to effecting the release of this shipment of the Texas Company and satisfactorily adjusting the question of the exemption from taxation of transit pass cargo, the American Legation would urge that this matter be referred again to His Excellency, Marshal Yen Hsi-shan, with the request that the necessary instructions be issued to the Provincial Government of Honan.

PEIPING, August 25, 1930.

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893.512 Liggett and Myers Tobacco Co./1

*The American Legation in China to Marshal Yen Hsi-shan's  
Diplomatic Bureau at Peiping*<sup>28</sup>

MEMORANDUM

The American Legation presents its compliments to the Diplomatic Bureau and has the honor to inform it that a shipment of cigarettes belonging to the Liggett and Myers Tobacco Company (China), Limited, an American concern, is being detained by the Tientsin Customs pending the production of proof of payment of an excise on cigarettes, increased from thirty-two and one-half per cent to fifty per cent on July 21, 1930.

The American Consul General at Tientsin referred this matter to the Commissioner of Customs at that port in an effort to effect the release of this cargo. However, the customs authorities maintain that they are unable to pass this or any other shipment of cigarettes unaccompanied by permits stamped by the Consolidated Tobacco Tax Bureau as having paid the increased cigarette excise mentioned.

The Diplomatic Bureau will recall that under the national tariff of the Republic of China it is set forth that cigarettes shall be subject to certain import duties, and, furthermore, that a note appended to

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<sup>27</sup> Not printed.

<sup>28</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 427, August 27, 1930; received September 24.

the tariff states that in addition to such customs duties, cigarettes shall be subject to an excise of thirty-two and one-half per cent.

While the Liggett and Myers Tobacco Company are prepared to pay the duties and excise mentioned, which have been duly promulgated by the Republic of China, it does not feel that it should be called upon to pay an arbitrarily increased excise such as is now being collected in Tientsin and the Province of Hopei.

The American Legation would point out that this increased excise has been imposed only in the Province of Hopei, and that if individual provinces proceed to impose excises at will, business will become impossible. Furthermore, it is difficult to believe that it is the intention of His Excellency Marshal Yen Hsi-shan to permit arbitrary taxation of this nature, which can only result in the cessation of business and general economic depression.

The American Legation therefore has the honor to request that the Diplomatic Bureau refer this matter to His Excellency Marshal Yen Hsi-shan, to the end that instructions be issued to the Commissioner of Customs at Tientsin to release the cargo of the Liggett and Myers Tobacco Company without payment of this increased excise.

PEIPING, August 26, 1930.

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893.512/1058

*The Consul at Tientsin (Atcheson) to the Minister in China  
(Johnson)*<sup>29</sup>

TIENTSIN, September 3, 1930.

SIR: Adverting to Mr. Gauss' despatch of August 11th<sup>30</sup> and the Legation's instruction of August 14th, concerning a goods tax on the Tchengtai Railway, I have the honor to acquaint you that the Standard Oil Company of New York reports the receipt of unofficial but reliable information to the effect that the tax in question has been abolished.

I may add that, in compliance with the Legation's instruction, the Consulate General on August 15th made telegraphic representations to Marshal Yen Hsi-shan protesting the imposition of this tax.

Respectfully yours,

GEORGE ATCHESON, JR.

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<sup>29</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 447, September 6, 1930; received October 8.

<sup>30</sup> Not printed.

893.512/1059

*The American Minister in China (Johnson) to the Chinese Minister for Foreign Affairs (C. T. Wang)* <sup>31</sup>

No. 151

PEIPING, September 5, 1930.

YOUR EXCELLENCY: I have the honor to inform Your Excellency that the American Consul at Tsingtao reports that during April, 1930, the Tsingtao Special Municipality promulgated new provisional regulations governing billboards and other forms of public advertising, and that Chapter I, Article 15 of these regulations contains a provision clearly discriminating against advertisements of foreign-made goods in favor of those of native origin. The discriminatory provision in question permits of a reduction of thirty per cent in the amount of the tax paid for the display of advertisements of Chinese goods and, according to the regulations, is intended to promote the production and sale of native products.

I desire to call Your Excellency's attention to the fact that the discriminatory feature mentioned contravenes the spirit, if not the letter, of Article I of the Sino-American Tariff Treaty of 1928 and that, while I am in sympathy with the efforts being made by Your Excellency's Government to encourage the use of domestic products, I feel that such encouragement might well be effected by means other than the imposition of discriminatory taxes on American goods. Accordingly I have the honor to request Your Excellency to issue appropriate instructions to the Special Municipality of Tsingtao, to the end that this indirect but discriminatory taxation of American goods in the matter of advertisements may cease.

I avail myself [etc.]

NELSON TRUSLER JOHNSON

893.512/1065

*The Minister in China (Johnson) to the Secretary of State*

No. 461

PEIPING, September 13, 1930.

[Received October 22.]

SIR: I have the honor to refer to the Department's telegraphic instruction No. 295 of August 28, 1 p. m.,<sup>32</sup> authorizing the Legation and the Consulate General to refrain from filing with the *de facto* authorities any protest against kerosene and gasoline taxes in the province of Honan, on the basis of special endorsements appearing on transit passes, but authorizing the Consulate General to transmit to

<sup>31</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 446, September 5, 1930; received October 8.

<sup>32</sup> Not printed.

the appropriate Chinese authorities protests made by American oil companies in their own names on the basis of such endorsements.

There is now enclosed for the information of the Department, a copy of despatch dated September 8, 1930, from the American Consul General at Tientsin,<sup>33</sup> from which it appears that the Standard Oil Company of New York has availed itself of the procedure suggested by the Department and that the Consulate General has transmitted to the Chairman of the Honan Provincial Government a protest made by the Company on the basis of special endorsements appearing on transit passes issued to it.

Respectfully yours,

For the Minister:  
MAHLON F. PERKINS  
*Counselor of Legation*

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893.512/1053

*The Secretary of State to the Minister in China (Johnson)*

No. 262

WASHINGTON, September 24, 1930.

SIR: The Department refers to the Legation's despatch No. 363 of July 31, 1930,<sup>33</sup> asking the Department's approval of the Legation's instruction of July 31, 1930, to the American Consul at Swatow,<sup>34</sup> in reference to the question of protests by him against the taxation of goods, in one instance of Japanese origin, imported into China by American citizens.

In regard to the second paragraph of the Legation's instruction to the American Consul at Swatow, the Department would observe that the Legation appears to have summarized therein in a general manner the right of the Chinese authorities to tax goods imported by American citizens into China and those subsequently shipped by them into the interior. Since, however, the American Consul at Swatow, in his despatch of June 20, 1930,<sup>35</sup> stated that the cotton piece goods he referred to were of Japanese origin, the Legation might appropriately have pointed out that the treaty on tariff relations of July 25, 1928, and the notes exchanged on February 6, 1929,<sup>35</sup> interpreting Article I of the treaty, provide that neither American citizens nor American merchandise shall be subject to discriminatory taxation, and that, in view of this circumstance, the Japanese origin of the cotton piece goods imported by American citizens need have occasioned the Consul no perplexity. The text of the exchange of notes of February 6, 1929,

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<sup>33</sup> Not printed.

<sup>34</sup> *Ante*, p. 283.

<sup>35</sup> *Foreign Relations*, 1929, vol. II, pp. 773, 786, 787.

was sent to American consular offices in China with the Legation's Circular No. 310 of February 16, 1929. The last sentence of the Legation's instruction of July 31, 1930, under discussion, referred to the Department's instruction to the Legation No. 1463 of January 30, 1930, but failed to convey the intent of that instruction with exactness; the Department's instruction stated "when goods covered by a transit pass are subjected to further taxation while en route to their destination, a protest may properly be made at the request of the American interest concerned". It is the Department's impression that a transit pass does not, unless specially modified, exempt the goods covered by it from such taxes as the "sale or consumption tax" described by the American Consul at Swatow in his despatch. An instance of the modification of a transit pass was reported to the Legation by the American Consul General at Tientsin in his despatch of June 19, 1930, a copy of which was sent to the Department in the Legation's despatch No. 307 of July 8, 1930.<sup>37</sup> In this case the Consul General reported that transit passes issued gratis by the Chinese Customs covering kerosene and gasoline shipments en route to interior points bore special endorsements as follows:

"This document has been issued by the . . . . . Superintendent of Customs, under authority from the National Government, and likin barriers and *all* other tax offices en route *and at destination* are requested to pass the goods *without further taxation* after verification".

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

893.512/1064

*The Consul General at Shanghai (Cunningham) to the Minister in China (Johnson)* <sup>38</sup>

No. 6639

SHANGHAI, September 26, 1930.

SIR: I have the honor to transmit a copy of a letter dated July 10, 1930, addressed to the Senior Consul by the Minister of Finance <sup>39</sup> in reference to the enforcement of the excise tax on cigars and cigarettes in the Settlement. The Minister of Finance points out that it is unfair to the honest manufacturer, who pays the tax voluntarily, that others are allowed to evade it simply because of the inability of the Tax Bureau to enforce payment in the Settlement. He seeks the assistance of the Consular Body and the International Settlement authorities in preventing cigarettes on which the excise taxes have not been paid from being sold in the Settlement and from being smuggled from the Settlement to Chinese territory.

<sup>37</sup> Neither printed.

<sup>38</sup> Copy transmitted to the Department by the Consul General in his covering despatch No. 7172, September 26, 1930; received October 22.

<sup>39</sup> Not printed.

In order that a statement might be secured from the Municipal Council as to its attitude in the matter a letter was addressed to the Director-General and there is enclosed a copy of his reply, dated July 25, 1930.<sup>39a</sup> His reply is interesting because there is attached thereto a memorandum prepared by Major Arthur Bassett,<sup>39a</sup> on behalf of the British-American Tobacco Company and other concerns, which have an agreement with the Excise Tax Bureau in regard to the payment of taxes. It is also interesting in that it gives an expression of opinion of Mr. Justice Feetham,<sup>40</sup> who is here studying the various problems in order that the friction existing between the foreign administered and the Chinese administered territory might be minimized. The Senior Consul has had conversations with various persons, including Mr. Justice Feetham, who is very strongly in sympathy with the Minister of Finance, and has learned that there is no particular opposition on behalf of the International Settlement authorities to entering into an agreement which will assist the Minister of Finance in attaining the object which he desires. The matter will be considered next week by the members of the Consular Body and it is hoped that the Legation will telegraph any instructions or suggestions which it is desired that this Consulate General should observe, immediately upon the receipt of this despatch. It is not believed that there will be any objections on the part of the Consular Body to a conference of the Municipal Council's representative, a representative of the Excise Tax Bureau and one from the Senior Consul for the purpose of finding some method of assisting the Minister of Finance. In this matter I am in complete sympathy with the request of the Minister of Finance.

A branch office of the Tobacco Tax Bureau has been located within the Settlement for a considerable period, permission to establish the same having been granted upon the personal application of Mr. T. V. Soong, the Minister of Finance, directly to the Municipal authorities, and the then Chairman of the Shanghai Municipal Council approved the application under what he termed a "Gentlemen's Agreement." One of the contributing arguments in favor of the granting of such permission was the fact that the location of a branch office within the Settlement would be a great convenience to the foreign cigarette manufacturers. This office is informed by the Municipal authorities that the Tobacco Tax Bureau has at no time even attempted to contravene any Municipal regulation.

It is respectfully requested that a telegram be despatched as early as possible containing the Legation's instructions for my guidance at the proposed Consular Body meeting which will take place during

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<sup>39a</sup> Not printed.

<sup>40</sup> Mr. Justice Richard Feetham, of the Union of South Africa.



the coming week. It is particularly important that this matter be concluded before my departure on leave of absence on October 10, 1930.

I have [etc.]

EDWIN S. CUNNINGHAM

893.512/1059

*The Secretary of State to the Minister in China (Johnson)*

No. 297

WASHINGTON, November 4, 1930.

SIR: The Department acknowledges the receipt of the Legation's despatch No. 446 of September 5, 1930,<sup>41</sup> transmitting a copy of the Legation's instruction to the American Consul at Tsingtao dated May 29, 1930.<sup>42</sup> That instruction authorized the American Consul to protest to the Chinese authorities against discrimination in the assessment of an advertising tax. The Legation stated that the correct interpretation of Article I of the Treaty between the United States and China of 1928 regulating tariff relations is that goods of American nationals shall not be subject to higher taxation in China than are the goods of the nationals of China, and that on this account a protest against the discriminatory taxation of advertising would seem to be in order.

The Department does not believe that it is necessary that the Legation revise its instruction of May 29, referred to above, or its similar instruction addressed to the American Consul General at Shanghai of May 21,<sup>43</sup> a copy of which was enclosed with the Legation's despatch No. 216 of the same date.<sup>44</sup> Nevertheless, the Department desires to observe, for the future guidance of the Legation, that in so far as the position taken by the Legation was based upon the assumption that the Treaty of July 25, 1928, undertakes to provide that imported goods shall be taxed in no other or higher way than native goods, the Legation's position would seem to be untenable. The Department's understanding is that the second paragraph of Article I of the treaty in question relates only to duties, internal charges or taxes on "importations and exportations", and that the treaty does not undertake to provide for equality of treatment as between native goods and imported goods. The Legation will recall that the Department transmitted with its instruction No. 1430 of December 20, 1929, dealing with a tax on flour, a copy of its letter of September [December] 20, 1930 [1929], to the Honorable John W. Summers,<sup>45</sup> in which letter the Department expressed the view that equality of treatment could not be

<sup>41</sup> Not printed.

<sup>42</sup> *Ante*, p. 279.

<sup>43</sup> *Ante*, p. 278.

<sup>44</sup> Despatch not printed.

<sup>45</sup> Neither printed.

claimed, under the Treaty of July 25, 1928, for flour imported directly from a foreign port as compared with flour produced in China and shipped from one Chinese port to another.

The Legation will observe that the present instruction relates to the interpretation of the Treaty of July 25, 1928, and does not deal with the possibility that there may be grounds, aside from that Treaty, for protesting against discrimination in the matter of taxes on advertising.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

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893.512 Liggett and Myers Tobacco Co./3

*The Secretary of State to the Minister in China (Johnson)*

No. 308

WASHINGTON, November 13, 1930.

SIR: The Department has received the Legation's despatch No. 427 of August 27, 1930,<sup>46</sup> relating to the attempt of the Consolidated Tobacco Tax Bureau at Tientsin to collect from an American firm an excise tax on cigarettes at a rate higher than that prescribed for this excise by the National Government of China, that is, thirty-two and one-half per cent.

The Department notes that the Legation, in its memorandum of August 26, 1930, to the Diplomatic Bureau, Peiping,<sup>47</sup> refers to the fact that the National Tariff of the Republic of China prescribes that cigarettes shall be subject to certain import duties and that a note appended to the Tariff states that in addition to such customs duties, cigarettes shall be subject to an excise of thirty-two and one-half per cent. The Legation goes on to request that the cargo in question be released without payment of the increased excise, basing its request on the fact that business would become impossible if individual provinces were to impose excises at will.

The Department notes that in the present case the Consolidated Tobacco Tax Bureau endeavored to use the Maritime Customs as a means for compelling the payment of an excise at a rate higher than that prescribed by the National Government. The Department believes that the American importer had a right to expect that the rates of import duty and of excise set forth by the National Government would be the rates at which the merchandise in question would be taxed at the time of importation and the Legation's memorandum of August 26, 1930, to the Diplomatic Bureau is approved.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

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<sup>46</sup> Not printed.

<sup>47</sup> *Ante*, p. 286.

893.4061 Motion Pictures/12

*The Secretary of State to the Minister in China (Johnson)*

No. 348

WASHINGTON, January 3, 1931.

SIR: The Department refers to the Legation's despatches No. 382 of August 9, 1930 and No. 411 of August 20, 1930,<sup>48</sup> relating to restrictions on the exhibition of motion picture films.

The Department notes, as enclosures to the earlier of the despatches referred to above, communications addressed by the Legation to the Chinese Minister for Foreign Affairs dated May 27, 1930, and August 9, 1930,<sup>48</sup> in which the Legation takes the position that the imposition of higher censorship fees on motion picture films imported from the United States than are imposed on native made films, constitutes discriminatory taxation on American goods as opposed to Chinese goods and that this discrimination contravenes the Treaty of July 25, 1928, between the United States and China, regulating tariff relations.

In so far as the discrimination described above may be based upon a distinction between moving picture films imported from abroad and films wholly manufactured in China, the Department is of the opinion that the point at issue does not come within the scope of the Treaty of 1928 regulating tariff relations, since the Treaty appears to contain no stipulation which would forbid the discriminatory taxation of which complaint has been made. The Legation is referred in this connection to the Department's instruction No. 297 of November 4, 1930, in regard to discrimination in the assessment of an advertising tax. The Legation will recollect that the Department in that instruction expressed its understanding that "the second paragraph of Article I of the treaty in question relates only to duties, internal charges or taxes on 'importations and exportations' and that the treaty does not undertake to provide for equality of treatment as between native goods and imported goods." In other words the treaty provides for equality of treatment of all goods imported or exported but does not provide for equality of treatment as between goods imported or exported and goods not having the status of imports or exports.

The Department suggests that the Legation continue its protests against discrimination in the matter of censorship fees but that such protest be based not on the Treaty of 1928, but on the general ground of international comity, pointing out that Chinese goods in the United States are accorded absolute equality of treatment as compared with American products.

Very truly yours,

For the Secretary of State:  
WILLIAM R. CASTLE, JR.

<sup>48</sup> Neither printed.

# REPRESENTATIONS AGAINST A PROPOSED TOBACCO MONOPOLY IN SHANSI PROVINCE

893.61331/25 : Telegram

*The American Minister in China (Johnson) to Marshal Yen Hsi-shan  
of Shansi Province*<sup>49</sup>

[Translation]

[PEIFING, February 14, 1930.]

EXCELLENCY: I have the honor to state that I have been informed that, on and after March 1st, the sale of cigarettes and cigars is to be made a provincial monopoly in Shansi and that the foreign companies dealing in these products are not to be allowed to make sales directly to individual merchants. In this connection, the American Consul General at Tientsin addressed communications to the Shansi Provincial Government on January 7th, on January 17th, and again on January 27th. He has as yet had no reply. Since, in so far as American firms are concerned, the establishment of such a monopoly would inflict serious damage upon American trade and would contravene the treaties between the United States and China relating to trade and commerce, I have the honor to request that Your Excellency will be good enough to investigate the situation and, if the facts are as reported, take effective steps to prevent the establishment of the monopoly in question. An early reply would be appreciated.

Accept [etc.]

NELSON T. JOHNSON

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893.61331/25 : Telegram

*Marshal Yen Hsi-shan of Shansi Province to the American Minister  
in China (Johnson)*<sup>50</sup>

[Translation]

TAIYUANFU, SHANSI, February 18, 1930.

Your telegram of the 14th instant has been noted. As regards your request for the investigation of the official sale of cigarettes and cigars in Shansi Province, an instruction was immediately issued to those concerned for investigation and reply. I am now in receipt of a reply from the Bureau of Finance of Shansi, stating in effect as follows:

"This official sale of cigarettes and cigars in Shansi does not by any means operate to prevent the direct sale of foreign goods to merchants.

<sup>49</sup> Telegram sent in Chinese; copy of translation transmitted to the Department by the Minister in China in his despatch No. 53, March 1, 1930; received March 28.

<sup>50</sup> Telegram received by the Minister in China in Chinese code; copy of translation transmitted to the Department by the Minister in his despatch No. 53, March 1, 1930; received March 28.

It is an official sale of goods purchased from the merchants in Shansi dealing in cigarettes and cigars with the intent to determine the exact amount of cigarettes and cigars consumed in Shansi and to seek for detailed and accurate statistics regarding internal administration and, further, by means of this, to prevent evasion duties.

"Chinese merchants will still be free to order any kind of cigarettes or cigars from outside in accordance with the regulations. There is really no intention to contravene treaties and regulations."

I have the honor to observe that since, in accordance with the above statement, such official sale is designed to obtain statistics of internal administration and to prevent evasion of duties, it does not constitute any contravention (of treaties). Aside from having instructed the Bureau of Finance to observe the treaties and regulations and to exercise constant care, it is requested that you will transmit this information to your merchants in order that they may not misunderstand the situation.

[SEAL] YEN HSI-SHAN

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893.61331/24 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, March 25, 1930—5 p. m.

105. Department has received despatch No. 1817 dated December 28<sup>51</sup> and copies of later despatches from the American Consul General at Tientsin to the Legation regarding proposed tobacco monopoly in Shansi Province. In view of the internal political situation a protest from the Legation to the National Government against this proposed monopoly presumably would be ineffective, but Department believes that desirability of making such a formal protest should receive serious consideration. Either provincial or National monopoly of trade in any article of commerce would violate undertaking given in Article XV of the Treaty of 1844,<sup>52</sup> and the Department believes that action to create such monopoly should be opposed. Department invites your comments regarding advisability of proposed protest to the Nanking authorities or other appropriate measure.

COTTON

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<sup>51</sup> Not printed.

<sup>52</sup> Signed at Wang Hiya, July 3, 1844; Miller, *Treaties*, vol. 4, p. 559.

893.61331/26: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 29, 1930—4 p. m.  
[Received March 29—10:10 a. m.]

234. Department's 105, March 25, 5 p. m. Legation's mail despatch No. 53 of March 1<sup>53</sup> transmitted copies of Legation's communication to Yen<sup>54</sup> supporting Gauss' protest against monopoly and pointing out that the establishment of monopoly would contravene Sino-American treaties. Gauss keeps Legation fully informed and the Legation [is] only to communicate again with Yen if and when such further action seems desirable. No protest has been made to Nanking since the Central Government has no actual authority in Shansi and since a protest to Nanking if forwarded to Yen would be expected [*sic*] only to irritate him.

JOHNSON

893.61331/33: Telegram

*The American Minister in China (Johnson) to Marshal Yen Hsi-shan of Shansi Province*<sup>55</sup>

[Translation]

PEIPING, September 26, 1930.

YOUR EXCELLENCY: I have the honor to refer to Your Excellency's telegram of February 18, 1930, in reply to the Legation's telegram of February 14, 1930, in which assurances were given that the official sale of cigarettes and cigars in Shansi does not operate to prevent the direct sale of foreign goods to merchants. However, the Legation regrets to inform Your Excellency that the Liggett and Myers Tobacco Company (China) Limited, an American firm, reports through the American Consulate General at Tientsin that, due to various restrictions imposed on the tobacco trade by the Bureau of Finance, it has been forced almost completely to suspend business in the province of Shansi.

I am unwilling to believe that it is either Your Excellency's intention or desire to stop completely the legitimate trade of this American firm in the province of Shansi, particularly as it is to the mutual advantage of Chinese and American merchants to trade freely, as provided for in the treaties concluded between our respective countries. I therefore have the honor to most earnestly urge Your Ex-

<sup>53</sup> Not printed.<sup>54</sup> *Ante*, p. 295.<sup>55</sup> Telegram sent in Chinese; copy of translation transmitted to the Department by the Minister in China in his despatch No. 491, September 26, 1930; received November 5.

cellency to issue the necessary instructions to permit this American firm to carry on its business unimpeded by injurious restrictions which are contrary not only to existing treaties but also to the best interests of the friendly and growing commercial relations between the United States and China.<sup>56</sup>

Accept [etc.]

For the Minister:  
MAHLON F. PERKINS  
*Counselor of Legation*

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### SINO-SOVIET CONFLICT OVER THE CHINESE EASTERN RAILWAY<sup>57</sup>

861.77 Chinese Eastern/879

*The Chinese Legation to the Department of State*<sup>58</sup>

Tsai Yuan-Sheng [*Tsai Yun-sheng*] was authorized by the National Government to enter into preliminary negotiations with Simanovsky, the Soviet Delegate, for the settlement of the questions arising out of the Chinese Eastern Railway dispute and for the discussion of the question of procedure for holding a formal conference in future. On December 22, 1929, there were signed at Habarovsk between the Chinese and Soviet Delegates certain minutes purporting to be a settlement of the dispute. The minutes contained, however, in addition to a *modus vivendi* relating to the questions arising out of the Railway dispute, certain other proposals of a general character concerning the relations between the two countries which the Chinese Delegate was not authorized to discuss and which were outside the scope of his instructions. In so doing he had acted *ultra vires*.

According to international usage, an arrangement concluded between the delegates of two countries is subject to the approval and ratification of the respective governments. In so far as the issues arising out of the Railway questions are concerned, the arrangement contained in the minutes has been carried out. In pursuance thereof persons detained on each side have been released, a new manager and a new assistant manager of the Railway have been appointed, and normal traffic on the Railway has been resumed.

The National Government of China, being desirous of arriving at a final settlement of the Railway questions, is prepared to send a delegate to the formal conference in Moscow for the exclusive purpose of effecting a readjustment of the Chinese Eastern Railway. Should the

<sup>56</sup> Marshal Yen's retirement on November 4, 1930, followed the overthrow of his regime at Peiping. See despatch No. 680, December 18, 1930, from the Minister in China, p. 58.

<sup>57</sup> Continued from *Foreign Relations*, 1929, vol. II, pp. 186-435.

<sup>58</sup> Handed to the Under Secretary of State by the Chinese Minister on February 13, 1930.

Soviet Government deem it necessary to negotiate with the National Government in respect of questions of a general character relating to the trade and commercial relations between the two countries as well as other problems and to that end appoint a delegate to China, the National Government will be prepared to enter into negotiations with such a delegate.

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761.93 Conference, 1930/13

*Memorandum by the Minister in China (Johnson)*<sup>59</sup>

[NANKING,] February 24, 1930.

In the course of a call today I inquired of the Minister for Foreign Affairs as to the present status of the negotiations between China and the Soviet Government on the subject of the Chinese Eastern Railway.

Dr. Wang told me that the situation today was the same as it had been before the incident occurred in May. He said that the Chinese Government had accepted the terms signed at Habarovsk, except for those provisions concerning the restoration of diplomatic intercourse, that Moh Teh-hui<sup>60</sup> was about to proceed to Moscow for the purpose of taking up negotiations with Russia for a complete settlement of the points of controversy.

In the course of this conversation Dr. Wang made one or two rather interesting statements. He said that the situation might have been different had it not been for the fact that internal difficulties prevented the Central Government from giving to Chang Hsueh-liang<sup>61</sup> any proper support in this matter. He said also that if Chang Hsueh-liang could have waited only a week or two before signing the Habarovsk settlement, the situation would have changed by reason of the identic communications sent by the American, British, French and Italian Governments to China and to Russia . . . but that, unfortunately, Chang and his delegate, Tsai, had gone ahead. He said that Tsai had exceeded his powers at Habarovsk and that the Government could not recognize that part of the agreement which concerned itself with the restoration of diplomatic relations and that apparently the Government at Moscow had accepted his statement to that effect, made about a week ago.

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<sup>59</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 86, March 14, 1930; received April 23.

<sup>60</sup> President of the Chinese Eastern Railway and chief Chinese delegate to the conference at Moscow.

<sup>61</sup> Head of the Mukden Government and commander of the armed forces in Manchuria and Jehol.



861.77 Chinese Eastern/910 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, March 28, 1930—5 p. m.

114. Your despatch No. 2504, December 31.<sup>62</sup>

1. The Department believes that for purposes of the record it would be advisable to make written acknowledgment of the note of December 3, 1929, from the Chinese Foreign Office. Department therefore suggests that you reply as follows:

2. "The Minister of the United States of America has the honor to acknowledge the receipt of the note of the Chinese Government dated December 3, 1929, from Nanking, relating to the dispute between China and Russia concerning the Chinese Eastern Railway and related matters and to refer, in this connection, to the Minister's telegram on the same subject, dated December 2, 1929, from Peiping, which was acknowledged by the Chinese Government in its telegram of December 4, 1929."<sup>63</sup>

COTTON

761.93 Conference, 1930/26

*Memorandum by the Minister in China (Johnson) of a Conversation With the Chinese Vice Minister for Foreign Affairs (Frank Lee)*<sup>64</sup>

NANKING, May 21, 1930.

Vice Minister Lee informed me today that Moh Teh-hui, Chinese delegate to the Sino-Russian Conference, had arrived in Moscow and it was expected that parleys would soon begin. Mr. Lee stated that he felt that matters would not be settled until the 1924 agreement<sup>65</sup> had been changed as the plan therein provided for, for joint operation of the railway with each nationality having an equal number of directors, had not worked as either side could prevent effective operation of the Board of Directors by absence from meetings, thus throwing the entire business of the railway into the hands of the manager of the railway, a Russian. He stated that Moh Teh-hui had been well received in Moscow, having been met at the station by Karakhan<sup>66</sup> and was rapidly getting acquainted. He stated, however, that he

<sup>62</sup> Not printed; it enclosed a note dated December 3, 1929, from the Chinese Minister for Foreign Affairs (see *Foreign Relations*, 1929, vol. II, footnote 58, p. 383).

<sup>63</sup> See telegram No. 1083, December 4, 1929, from the Chargé in China, *ibid.*, p. 387.

<sup>64</sup> Copy transmitted to the Department without covering despatch; received July 17, 1930.

<sup>65</sup> For texts of agreements signed at Peking, May 31, 1924, see *Foreign Relations*, 1924, vol. I, p. 495; for report on agreement signed at Mukden, see telegram No. 377, October 4, from the Chargé in China, *ibid.*, p. 510.

<sup>66</sup> L. M. Karakhan, chief Soviet delegate and former Soviet Ambassador in China.

feared Karakhan would demand a broadening of the powers of the Chinese delegate, Moh, to include commercial and diplomatic relations and that the Chinese Government would have to refuse to do this.

NELSON TRUSLER JOHNSON

761.93 Conference, 1930/27

*Memorandum by the Minister in China (Johnson)*<sup>67</sup>

NANKING, May 30, 1930.

In the course of conversation with Vice Minister Frank Lee today, he stated that there was to have been a meeting on May 28th between the Chinese and Russian delegates in Moscow to establish the scope of negotiations. He stated he expected there would be controversy over this question as the Russians wished to extend the negotiations to matters not immediately relating to the status of the Chinese Eastern Railway, while Moh Teh-hui was instructed to limit his discussions entirely to the Railway and to the status of the 1924 agreement. He stated that the Russians had appointed a delegation of seven, headed by Karakhan, to represent them in the discussions.

NELSON TRUSLER JOHNSON

761.93 Conference, 1930/55 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 12, 1930—4 p. m.

[Received December 13—2:50 a. m.]

1041. Legation's 1023, December 2, noon.<sup>67a</sup> Following from Kuo Wen, Nanking, December 10th:

"Vice [*The?*] Minister of Foreign Affairs said that the Waichiaopu has wired Moh Teh-hui accepting his application for home leave so as to make a personal report to the Government on the Sino-Russian conference.

Wang added that when Moh left for Moscow last May the Government intended that the coming conference should only deal with the Chinese Eastern Railway. But since then the question of resuming diplomatic relations as well as commercial intercourse had been brought up for discussion. In order to obtain the views of the Government and also in view of the difficulty of telegraphic communications between China and Russia, Moh thought it necessary to return home.

<sup>67</sup> Copy transmitted to the Department without covering despatch; received July 17, 1930.

<sup>67a</sup> Not printed.

Wang further declared the two Chinese technical committees on resumption of trade and diplomatic relations will remain in China for some time. It was the original intention of the Government to despatch these committees to Russia to assist Moh at once."

For the Minister:  
PERKINS

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761.93 Conference, 1930/58 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 17, 1930—5 p. m.  
[Received December 18—8:50 a. m.]

1053. Legation's 1041, December 12, 4 p. m. Following from Reuter, Moscow, December 16th:

"Karakhan, Under Commissar for Foreign Affairs in the Soviet Government and chief Soviet delegate at the Sino-Russian conference here, has informed Moh Teh-hui, head of the Chinese delegation, who is about to depart for China for a period, that the Soviet Government fully shares, [and?] has repeatedly expressed wish, that a start be made in the discussion of the questions of the Chinese Eastern Railway and trade and diplomatic relations for which special commissions were formed at conference on December 4th.

The hope is expressed that Moh Teh-hui will speedily return and the work of the conference be resumed."

For the Minister:  
PERKINS

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761.93 Conference, 1930/59 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 31, 1930—1 p. m.  
[Received December 31—9:15 a. m.]

1085. Legation's 1053, December 17, 5 p. m. Following from Kuo Wen, Harbin, December 29th:

"Moh Teh-hui, chief Chinese delegate to the Moscow conference, returned here this evening.

Mr. Moh will proceed to Mukden and Nanking to report on the proceedings of the Sino-Russian conference.

According to Mr. Moh, both China and Russia have agreed to settle the problems relating to the Chinese Eastern Railway first. Questions regarding the Sino-Russian diplomatic and commercial relations will be taken up for discussion later. Russia, China, to abide by the Habarovsk Protocol, but that question has been given up, said Mr. Moh.

The diplomat expressed great hope for Russia, saying that by virtue of the cooperation between the Government and the people she will gain an important position in the family of nations."

For the Minister:  
PERKINS

REPORTS OF CONFLICT BETWEEN CHINESE AND JAPANESE INTERESTS WITH RESPECT TO RAILWAYS IN MANCHURIA

893.77/2769 : Telegram

*The Ambassador in Japan (Forbes) to the Secretary of State*

TOKYO, December 15, 1930—2 p. m.  
[Received December 15—9:40 a. m.]

249. The Foreign Office informs me that press despatches indicating impending trouble between Japan and China in Manchuria are misleading. The following oral statement was added:

The Mukden authorities in disregard of Japanese protests against infringement of agreement have been engaged in building railways parallel to the South Manchuria Railway, and the sections comprising the main line from Anhsi to the sea are about to be connected. The Japanese Government is also greatly concerned by persistent reports from China of negotiations with foreign capitalists for funds for construction of additional Chinese lines to the serious prejudice of South Manchuria Railway, as public opinion in this country is acutely sensitive on the necessity of protecting Japanese rights in this area. In order to find an amicable settlement of a question of several years standing it has authorized the South Manchuria Railway to offer to help Mukden finance the construction of new lines which do not parallel the South Manchuria Railway. If Mukden will not accept such proposals and insists on the completion and extension of parallel lines, the South Manchuria Railway will be prepared to withdraw its objections on the conditions that Mukden agrees to some equitable division of revenues.

A director of South Manchuria Railway is now in Tokyo but will return shortly to Mukden to negotiate with the Chinese.

Peiping informed.

FORBES

893.77/2774

*The Ambassador in Japan (Forbes) to the Secretary of State*

No. 83

TOKYO, December 15, 1930.  
[Received January 2, 1931.]

SIR: Supplementing my telegram No. 249, December 15, 2 P. M., I have the honor to enclose a memorandum of a conversation which a member of my staff had this morning with Mr. Tani, Chief of the

Bureau of Asiatic Affairs in the Foreign Office, regarding press reports of impending difficulties with the Chinese in Manchuria.

Since the early part of the month, the press has been showing alarm over reports to the effect that the Mukden authorities had concerted plans with the Nationalist Government to eliminate Japanese interests from Manchuria. It was said that the construction of railway lines parallel to the South Manchuria Railway would be vigorously prosecuted, the Japanese lines were to be surrounded by a network of existing and projected Chinese railways, and the freight and passenger rates would then be lowered to a point which would eventually force the South Manchuria Railway to sell out to the Chinese at a price to be dictated by the Chinese. Another feature of the plan is to be the promotion of closer relations with the Soviets in order that freight originating in the area north of the Chinese Eastern Railway might be diverted from Dairen and shipped eastwards to Vladivostok. This is all supposed to have been arranged between the Mukden authorities and the Nationalist Government during General Chang Hsueh-liang's recent visit to Nanking.

The American press correspondents who recently called at the Embassy stated that the information given them at the Foreign Office in this relation was so "platitudinous and evasive" that they were inclined to believe that the Japanese papers had some good reason for their alarm. It was pointed out to these correspondents that the Japanese press was not unanimous in thinking that there are grounds for anxiety. The Tokyo *Asahi* observed editorially on the 7th instant that reports of concerted action between General Chiang Kai-shek and Chang Hsueh-liang must be examined in the light of the political situation which now obtains in China; that, while General Chang may have found it expedient to yield to pressure brought to bear on him while at Nanking to declare his subservience to central authority, he will cling to his prerogatives when he finds himself again safely at home, and that while the Nanking Government may add to its stature among the Chinese by Chang's protestations of loyalty, it would be premature to believe that the Nanking Government will hereafter exercise authority in Manchuria. Furthermore, the Foreign Office continued to advise the Embassy that it had not received any official intelligence substantiating press reports of an impending aggression upon Japanese interests in Manchuria.

However, during the latter part of last week, the Tokyo *Jiji*, which is usually well-informed in political matters, carried a circumstantial account of the Chinese plans. These were alleged to include the immediate completion of the Tsitsihar-Keshanchen Line in order to absorb freight in the Hsiaoshingan area, the construction of a direct line from Paiantala to Taonanfu and of a number of spurs from the Chinese lines on either side of the South Manchuria Railway to tap

the territory which now feeds the latter. The *Jiji's* editorial comment on the report was in part as follows:

"No one will deny that Manchuria is a part of China; and if China wishes to develop this area, Japan has no right to offer any obstruction. Nay, it should be to the advantage of both countries for Japan to assist China. At the same time, the Japanese people believe that the preservation of their vested interests in Manchuria is a matter of life or death to Japan; and if the Chinese resort to such positive measures to impair these interests, it would be absolutely impossible for Japan to remain silent. We can offer the Chinese a measure of sympathy, as this is but one manifestation of their desire to recover full sovereignty; but they should know that the violation of treaties or of Japanese rights is neither advantageous to China or calculated to promote the economic development of Manchuria."

As it was subsequently stated that the Japanese Government had instructed the Japanese Chargé d'Affaires at Nanking and the South Manchuria Railway to take up the question vigorously with the Nanking Government and Mukden authorities, respectively, a member of my staff called on the Chief of the Bureau of Asiatic Affairs this morning to ascertain the facts. His interview with Mr. Tani is set forth in the enclosed memorandum, and was briefly summarized in the above-mentioned telegram to the Department.

Mr. Tani deprecated the alarm expressed by the press, as the attitude of the Japanese Government is entirely concessive and dictated by a desire to be helpful to the Chinese. He expressed confidence that the Chinese would accept the generous proposals which the South Manchuria Railway was authorized to make. It may be added that Mr. Tani was not greatly concerned by the possibility of trouble arising out of the refusal of the Chinese to accept these terms, as it was his opinion that, while competition with Chinese railways over a short period after their completion would be embarrassing, the incapacity which the Chinese had shown to operate railways efficiently and with due regard to the setting aside of proper reserves for the maintenance and replenishment of lines and rolling stock, would ultimately lead to their defeat in a war *à outrance*.

Mr. Tani was particularly interested in the chances of American capital being advanced directly to the Chinese for the construction of railways which would compete with the South Manchuria Railway. He referred several times in the course of the conversation to various rumors of American financial interests acting through German (See the Embassy's despatch No. 29 of October 18, 1930<sup>68</sup>) and other European concerns; and he gave the impression that one of the principal reasons for coming to an agreement with the Chinese would

<sup>68</sup> Not printed.

be the removal of the ground for the objection raised by American bankers against the advancement of funds for Japanese development in Manchuria more than three years ago, when a loan was sought in the United States by the South Manchuria Railway.<sup>69</sup>

Respectfully yours,

W. CAMERON FORBES

[Enclosure]

*Memorandum by a Member of the American Embassy in Japan*

I called by appointment this morning on Mr. Tani, Chief of the Division of Asiatic Affairs in the Foreign Office, and had the following conversation with him:

I said that several foreign correspondents had called recently at the Embassy, and they appeared to be somewhat excited by reports appearing in Japanese papers to the effect that the Chinese were formulating plans to eliminate the Japanese interests from Manchuria, and that the Japanese Government is considering ways by which this attack may be met. I asked Mr. Tani whether the Foreign Office had received any information, indicating the likelihood that the Chinese would resort to aggressive measures against the South Manchuria Railway and other interests in Manchuria. Mr. Tani answered that he deplored the unduly alarmistic views expressed by the press. He said that the question was one of several years standing, and had been created by the determination of the Chinese to build railway lines in violation of an agreement made many years ago and against the protests of the South Manchuria Railway. The most important of these lines was that running from the Chinese Eastern Railway to the Sea; this line had been built in sections and was now virtually complete except for a small gap at Paintala where the lines from Liaotun [*Tungliaochen*] and Tafushan [*Tahushan*] were now being connected. The completion of this line, as well as of the line from Kirin to Hailung, would make serious inroads into the revenues of the South Manchuria Railway. He observed that, as I well knew, the protection of the interests of the South Manchuria Railway is a matter of life and death to the Japanese people, and therefore, public opinion in Japan would not tolerate a serious assault upon the interests of this Railway by the Chinese. The Japanese Government was also very much concerned by persistent reports from China, indicating the existence of negotiations between the Nationalist Government and foreign capitalists for loans to complete a large number of additional railway lines in Manchuria, many of which would encroach upon the rights of the South Manchuria

<sup>69</sup> See *Foreign Relations*, 1927, vol. II, pp. 482 ff.

Railway. I asked Mr. Tani whether he had any definite information in this regard, as the Embassy had made inquiries both in Washington and in Harbin regarding the sources of these rumors, and it had been unable to discover any foundation for them. Mr. Tani admitted that his Government also had no definite information, but, at the same time, it felt uneasy over the sending by the Nationalist Government of agents to the United States for the flotation of loans. He said that there was good reason to believe that the Germans were discussing with Chinese officials in Manchuria the advancement of a very large sum of money, and he thought in view of the present financial situation in Germany, that the German interests had hopes of obtaining the necessary funds in the United States.

Returning to the question of railways in Manchuria, Mr. Tani said that the Japanese Government did not consider that it had any preemptive rights in that area, and that it would welcome cooperation by foreign capitalists as well as the development of Chinese lines of communication and industrial interests so long as they did not conflict with those legally acquired and developed by Japan. He remarked that it was often impossible to understand the reasons for aggravating actions taken by the Chinese, but that at the same time the Japanese Government is proceeding to seek an amicable adjustment of difficulties created by the Chinese. It had recently authorized the South Manchuria Railway to suggest to the Mukden authorities that they abandon the completion of the line from the Chinese Eastern Railway to Tafushan, and to offer in return for this concession funds for the construction of lines which are necessary for the development of virtually untouched portions of Manchuria. Mr. Tani hoped that the Chinese would accept this settlement, but if they did not and insisted on the completion of the parallel line, the South Manchuria Railway is authorized to withdraw its objection on the condition that the Chinese agree to some equitable division of the revenue of this line.

Mr. Tani then asked me whether I believed American capitalists would be disposed to invest in Japanese undertakings in Manchuria. I reminded Mr. Tani that some three years ago some suggestion of this nature had been made to American financial interests and that the latter were reluctant to lend money to the South Manchuria Railway so long as the Chinese found Japanese economic development in Manchuria distasteful. He asked if the converse would be equally true; that is, would American capitalists be willing to lend money to the Chinese for the construction of railways inimical to Japanese interests. I answered that of course I did not know, but it seemed to me that, while the reason for the reluctance of American capitalists to lend money to the South Manchuria Railway was political, they



might be deterred by business reasons alone from lending money to the Chinese. So far as I could observe, the Chinese had not shown a capacity to operate their railways in an efficient manner, and with due regard to the rights of creditors and to the maintenance of the Railway in an efficient manner over a long period of time. If these considerations could be satisfactorily met by the Chinese, I saw no reason why American capitalists should not lend money to the Chinese. Mr. Tani then said that he hoped that the South Manchuria Railway would agree with the Mukden authorities upon terms satisfactory to both sides, as he hoped that it might then be possible to have foreign capital, American as well as European, cooperate with the Chinese and Japanese.

TOKYO, December 15, 1930.

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893.77/2771 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 19, 1930—5 p. m.

[Received December 19—9:30 a. m.]

1061. Tokyo's 249, December 15, 3 [2] p. m.

1. The Rengo Japanese Press Agency has lately issued reports at Tokyo that the Chinese are adopting a more aggressive attitude toward Japanese railway interests in Manchuria and that there is reason to fear that the construction of Chinese railways will "envelop" the South Manchuria Railway vitally and adversely affecting its interests (see Mukden's despatch number 365 [375], November 28<sup>70</sup>).

2. I am inclined to believe that the Japanese nervousness in this reputed accusation have [*has*] been much accentuated by the recent visit to Nanking of Marshal Chang who acted quite independently of his Japanese advisers. There is no doubt but that the Japanese are opposed to this visit and are much disturbed over the developments which may come from any identification of interests between Mukden and Nanking such as the possible use of a general boycott for the purposes of reenforcing the Chinese position vis-à-vis Japanese in Manchurian questions.

3. As far as I can ascertain here the Japanese are disposed to a policy of cooperation in railway matters unless pushed too hard by a Chinese policy which may seek to hamstring the South Manchuria Railway.

4. Code text to Tokyo by mail.

For the Minister:  
PERKINS

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<sup>70</sup> Not printed.

TREATY OF ARBITRATION BETWEEN THE UNITED STATES AND  
CHINA, SIGNED JUNE 27, 1930<sup>71</sup>

711.9312A/8

*The Chinese Minister (C. C. Wu) to the Secretary of State*

WASHINGTON, May 28, 1929.

SIR: Referring to your Department's note of December 21, 1928,<sup>72</sup> transmitting for the consideration of my Government and as a basis for negotiation the draft of a Treaty of Arbitration between China and the United States, I have the honor to return herewith in pursuance of instructions from my Government the draft as amended by my Government,<sup>73</sup> together with an explanatory note showing the reasons for the verbal changes suggested, for your consideration.

I take this opportunity to add that I have been designated as Delegate Plenipotentiary on the part of China with full power to sign this Treaty.

Accept [etc.]

CHAO-CHU WU

[Enclosure]

*The Chinese Legation to the Department of State*

EXPLANATORY NOTE

I. The words "Permanent International Commission constituted pursuant to the treaty signed at Washington, September 15, 1914"<sup>74</sup> should be substituted for "an appropriate commission of conciliation" in Article I, paragraph I of the draft treaty, because the above-mentioned treaty of Conciliation between China and the United States is still in force and because the change will thus obviate the necessity for settling the question of how "an appropriate commission of conciliation" should be constituted.

II. The words "in the Chinese and English languages, both texts having equal force," should be substituted for "in the English language" in Article III, paragraph III of the draft treaty, in conformity with an order of the National Government, which was based upon a recommendation of the Legislative Yuan, to the effect that hereafter whenever China concludes treaties with foreign countries, it should be provided in the treaties, in regard to the interpretation of the text, that the Chinese language should prevail, except when a third language is stipulated as authoritative.

<sup>71</sup> For previous correspondence, see *Foreign Relations*, 1928, vol. II, pp. 492 ff.

<sup>72</sup> *Ibid.*, p. 492.

<sup>73</sup> Not printed.

<sup>74</sup> *Foreign Relations*, 1915, p. 41.

711.9312A/12

*The Secretary of State to the Chinese Minister (C. C. Wu)*

WASHINGTON, June 22, 1929.

SIR: I have the honor to acknowledge the receipt of your note of May 28, 1929, on the subject of the arbitration treaty which this Government proposed to the Government of China in a note of December 21, 1928. You inform me that your Government is prepared to accept the text as proposed by this Government with two alterations.

The first desired change consists of a definite reference to the Permanent International Commission constituted pursuant to the treaty signed between the United States and China on September 15, 1914. The second desired change consists in having the treaty signed in both the English and Chinese languages, both texts to be of equal force.

I am happy to be able to inform you that the first of the changes desired by the Government of China is fully acceptable to the Government of the United States.

This Government will, moreover, be glad to sign the treaty with texts both English and Chinese, but feels that the formula used in the treaty regulating tariff relations concluded by the Governments of the United States and China on July 25, 1928,<sup>75</sup> should be used also in the present treaty.

The pertinent paragraph in the text as submitted by this Government on December 21, 1928, may accordingly be amended to read as follows:

"In faith whereof, the respective Plenipotentiaries have signed and do affix their seals to this treaty in duplicate in the English and Chinese languages; the English and Chinese texts have been carefully compared and verified but, in the event of there being a difference of meaning between the two, the sense as expressed in the English text shall be held to prevail."

I trust that this will be acceptable to your Government and that you will be in a position shortly to submit to the Department the Chinese text of the treaty. When the English and Chinese texts have been carefully compared and verified, the treaty may be put into final form and we may proceed to signature.

I am gratified at the progress which has been made in this matter and I ask you to accept [etc.]

H. L. STIMSON

<sup>75</sup> *Foreign Relations*, 1928, vol. II, p. 475.

711.9312A/13

*The Chinese Minister (C. C. Wu) to the Secretary of State*

WASHINGTON, July 24, 1929.

SIR: I have the honor to acknowledge the receipt of your note of June 22, 1929, concerning the two alterations suggested by my Government in the text of the arbitration treaty proposed by the American Government.

I am pleased to note that the first change desired by my Government, which consists of a definite reference to the Permanent International Commission constituted in pursuance of the treaty signed between China and the United States on September 15, 1914, is fully acceptable to the Government of the United States.

As a substitute for the second change desired by my Government relative to the signing of the treaty in the Chinese and English languages, both texts having equal force, you are good enough to suggest that the formula used in the treaty regulating tariff relations concluded by the Governments of China and the United States on July 25, 1928, should be used also in the present treaty. The reason for the amendment proposed by my Government in this regard is already given in the explanatory note which accompanied my note of May 28 last. It is to conform to an order of the National Government, which was based upon a recommendation of the Legislative Yuan, to the effect that hereafter whenever China concludes treaties with foreign countries it should be provided in the treaties, in regard to the interpretation of the text, that the Chinese language should prevail except when a third language is stipulated as authoritative. This order of the National Government was issued after the signing of the treaty regulating tariff relations between our two countries and is now controlling upon all departments of the National Government. It is not within the power of any department now to go against the plain meaning of the order.

It is to be noted in this connection that the arbitration treaties which the United States has recently concluded with several countries, for example, Czechoslovakia, Denmark, France, Germany, Italy, Norway and Sweden, all provide for the signing of the respective treaties in two languages, both texts having equal force. The change desired by my Government respecting the languages used in this treaty appears to be in line with the other arbitration treaties above mentioned. It is therefore in conformity, not only with the policy of my Government, but also with the most recent practice of the American Government. I trust that the American Government will see its way to adopt the same provision in the case of China as in the cases of so many other countries.

A copy of the Chinese text of the treaty is herewith submitted for your consideration.<sup>76</sup>

Accept [etc.]

CHAO-CHU WU

711.9312A/23

*The Acting Secretary of State to the Chinese Minister (C. C. Wu)*

WASHINGTON, January 31, 1930.

SIR: I have the honor to acknowledge the receipt of your note of July 24, 1929, wherein, in connection with the negotiation of a treaty of arbitration between the United States of America and China, you stated that an order of the National Government, based on a recommendation of the Legislative Yuan, requires that whenever China concludes treaties with other countries it shall be provided in the treaties, in regard to the interpretation of the text, that the Chinese language shall prevail except when a third language is stipulated as authoritative.

In reply, I am happy to state that the Government of the United States would have no objection to the signature of the arbitration treaty in the English, Chinese and French languages, and to the inclusion therein of a stipulation that the English and Chinese texts shall have equal force but that in case of divergence the French text shall prevail. I propose, therefore, the following revised form of Article III of the proposed treaty:

The present treaty, in English, Chinese and French, shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the National Government of the Republic of China in accordance with Chinese constitutional law. The English and Chinese texts shall have equal force, but in case of divergence the French text shall prevail.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof, the respective Plenipotentiaries have signed this treaty, in duplicate, in the English, Chinese and French languages, and hereunto affix their seals.

The acceptance by your Government of this proposed revision would place the two Governments in agreement on the terms of the treaty, and upon being advised of such acceptance and furnished with the Chinese text of the revision, I shall be glad to direct the preparation of the French text of the treaty for the consideration of your Government.

Accept [etc.]

J. P. COTTON

<sup>76</sup> Not printed.

711.9312A/24

*The Chinese Chargé (Yung Kwai) to the Acting Secretary of State*

WASHINGTON, March 21, 1930.

SIR: I have the honor to acknowledge the receipt of your note of January 31, 1930, in which, to meet the views of my Government regarding the authoritativeness of the Chinese text to the treaty of arbitration that is being negotiated between China and the United States, you are good enough to state that the Government of the United States would have no objection to the signature of the treaty in the Chinese, English and French languages and to the inclusion therein of a stipulation that the Chinese and English texts shall have equal force, but that in case of divergence the French text shall prevail.

After duly submitting to my Government the proposed revision of the treaty for its consideration, it affords me now great pleasure to state in reply that the proposed revision is entirely acceptable to my Government.

The two Governments having thus reached an agreement on the terms of the treaty, I beg to enclose herewith the Chinese text of the treaty for your consideration.<sup>77</sup> As soon as the French text is ready, I shall lose no time in laying it before my Government.<sup>78</sup>

Accept [etc.]

YUNG KWAI

Treaty Series No. 857

*Treaty Between the United States of America and China, Signed at Washington, June 27, 1930*<sup>79</sup>

The United States of America and the Republic of China,

Determined to prevent so far as in their power lies any interruption in the peaceful relations now happily existing between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall

<sup>77</sup> Not printed.

<sup>78</sup> The French text was submitted June 10, 1930, and accepted by the Chinese Minister on June 12.

<sup>79</sup> In English, Chinese, and French; Chinese and French texts not printed. Ratification advised by the Senate, December 10 (legislative day of December 9), 1930; ratified by the President, December 20, 1930; ratified by China, September 9, 1932; ratifications exchanged at Washington, December 15, 1932; proclaimed by the President, December 20, 1932.

have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries:

The President of the United States of America:

Mr. Henry L. Stimson, Secretary of State of the United States of America; and

The President of the National Government of the Republic of China:

Mr. Chao-Chu Wu, Envoy Extraordinary and Minister Plenipotentiary of the Republic of China to the United States of America;

Who, having communicated to one another their full powers found to be in good and due form, have agreed upon and concluded the following articles:

#### ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington September 15, 1914, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide, if necessary, for the organization of such tribunal, shall define its powers, shall state the question or questions at issue, and shall settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of China in accordance with its constitutional law.

#### ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

a) is within the domestic jurisdiction of either of the High Contracting Parties;

b) involves the interests of third Parties;

c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine;

d) depends upon or involves the observance of the obligations of China in accordance with the Covenant of the League of Nations.

### ARTICLE III

The present treaty, in English, Chinese and French, shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the National Government of the Republic of China in accordance with Chinese constitutional law. The English and Chinese texts shall have equal force, but in case of divergence the French text shall prevail.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof, the respective Plenipotentiaries have signed this treaty, in duplicate, in the English, Chinese and French languages, and hereunto affixed their seals.

Done at Washington this 27th day of June, one thousand nine hundred and thirty, corresponding to the 27th day of the sixth month of the nineteenth year of the Republic of China.

[SEAL]

HENRY L. STIMSON

[SEAL]

CHAO-CHU WU

### AGREEMENT RELATING TO THE CHINESE COURTS IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI, SIGNED FEBRUARY 17, 1930<sup>80</sup>

893.05/232 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 8, 1930—4 p. m.

[Received January 8—10:55 a. m.]

25. Legation's 21, January 6, noon [11 a. m.].<sup>81</sup>

1. At meeting yesterday of interested Heads of Legation tentative joint instructions to foreign delegates were agreed upon. Since British Counselor in the absence of his Minister is not authorized to make decisions with regard to present court matters, tentative joint instructions were telegraphed to British Minister aboard ship for his consideration with the request that if he concurred they be repeated to Nanking as the joint instructions of the interested Legations.

<sup>80</sup> For previous negotiations, see *Foreign Relations*, 1929, vol. II, pp. 682 ff.

<sup>81</sup> *Ibid.*, p. 748.



2. Tentative joint instructions are as follows:

"You should use your discretion in adapting previous instructions to meet the views of the Municipal Council. While from practical point of view the safeguarding of position of judicial police and process servers seems to us essential, we feel that to relax on the question of observers may have unfortunate reactions on future of extraterritoriality. While bearing this in mind, however, your discussions with the Chinese delegates might proceed a little further before any definite decision is taken on this point."

3. Foreign delegates are also expected to consider, first, the position under (c) in the telegram under reference of nonextraterritorial foreigners and, second, the advisability of insisting upon proper enforcement of sentences of Chinese convicts handed over to their authorities.

PERKINS

893.05/226 : Telegram

*The Acting Secretary of State to the Chargé in China (Perkins)*

WASHINGTON, January 9, 1930—1 p. m.

9. Your 18, January 4, 5 p. m.<sup>82</sup>

1. Your paragraph 2, point 4. The Department believes that any arrangements made regarding functions and powers of procurator should safeguard the right of the municipal authorities to initiate criminal prosecutions in the court in the International Settlement.

2. Points 6, 7 and 8. Regarding desire of Chinese that consular representative shall not "make known in public his opinions" the Department believes that due provision should be made for right of the consular representative to report fully to the authority on whose behalf he appears any ground for complaint in the conduct of a case, in order that, if desirable, cause of complaint may be taken up through official channels. In reference to limitation of scope of representation to criminal cases it appears to be necessary that the position of the Municipal Council should be protected by insisting on presence of consular representative in civil as well as criminal cases involving the Municipal Council. However, if it proves to be impossible to obtain effective authority for the consular representative or "observer" the Department would be disposed to concur in what appears to be the view of the Municipal Council, as set forth in your 21, January 6, 11 a. m.,<sup>83</sup> namely that the Municipal Council could advisably dispense with a consular representative or "observer", provided (a) that the Council were to be specifically granted the right to have a legal representative appear and be heard by the court in every case in which the

<sup>82</sup> *Foreign Relations*, 1929, vol. II, p. 744.

<sup>83</sup> *Ibid.*, p. 748.

Council considers the interests of the Settlement are directly involved, and (b) provided that the Chinese would consent to the employment of a foreigner of the Council's selection to head the judicial police and process servers.

3. Point 9. Referring to your 21, January 6, 11 a. m., paragraph 1 (B), the Department believes that the responsibility for policing the International Settlement, which responsibility is vested in the Municipal Council, requires that the judicial police and process servers shall function under the inspection of a foreign officer who shall be subject to the authority of the Municipal Council. It is the view of the Department that every process issued by the court should bear the signature of this officer before service, as evidence that, in his opinion, no violation of land regulations, municipal bylaws or treaties is involved, and that, if he believes any process coming to him for signature would result in such violation, he should be empowered to refer the matter to the Senior Consul for a ruling.

4. This telegram is in reply to your 21, January 6, 11 a. m., as well as your 18, January 4, 5 p. m. If additional questions arise they may be referred to the Department for consideration.

COTTON

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893.05/233 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 11, 1930—1 p. m.

[Received January 11—7:40 a. m.]

36. Legation's 25, January 8, 4 p. m.

1. Interested Heads of Legation met yesterday to consider telegram of the British Minister at Nanking when, after summing up views of the Chairman of the Council, as reported in my 21, January 6, noon [11 a. m.],<sup>84</sup> stated:

"The foreign delegates have now unanimously agreed amongst themselves to offer a settlement along the lines of giving up the observer (who was in any case to be reduced to a mere figurehead for the registration of protests) in return for satisfactory arrangements in regard to procurators and for foreign control of the judicial police which demands legal representation for the Council in all cases in which they consider the interests of the Settlement to be involved. This means that the function of watchdogs would be equally distributed: (a) By foreign officer through whom all court processes would be issued; (b) by the Council's legal representative in the court."

2. Joint instructions were accordingly sent the foreign delegates giving them full discretion to effect a settlement along the lines above

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<sup>84</sup> *Ibid.*

indicated. The interested Heads of Legation have now taken the exact position which I stated that it was my intention to support as provided in the second paragraph of my 21, January 6, noon [11 a. m.].

3. The Department's 9, January 9, 1 p. m., has just been received and will be given immediate consideration.

PERKINS

893.05/235 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 15, 1930—3 p. m.  
[Received January 15—9: 25 a. m.<sup>85</sup>]

47. Legation's 36, January 11, 1 p. m.

1. Department's 9, January 9, 1 p. m., was repeated to Nanking for the information and comment of the American delegates.<sup>86</sup> Following is pertinent portion of telegram from Bucknell:

"January 14, 4 p. m. Jacobs is in Shanghai for a few days to consult Council, and I venture to submit my own views in regard to instructions above mentioned. I feel that Jacobs would concur if it were possible to consult him.

I agree entirely with the views of the Department except as regards:

(a) Observer in civil cases involving Council, which I do not believe we could expect Chinese to agree to, since such representation in mixed cases has been waived. Under present conditions this would not in any event be insisted upon in view of decision to give up observer; and,

(b) Judicial police. I feel that Council would be adequately protected by having head of judicial police and process servers one of their own appointees through whom all orders of the court must pass before service without, however, insisting upon his countersignature. I understand that Council does not expect such countersignature and desires only a dependable source of information in the court regarding such court orders as are served or executed in the Settlement.

After twenty-three meetings with the Chinese representatives I am convinced that there will be no useful result of the foreign delegates continuing to discuss the points still at issue and would suggest that at the next meeting, which is on Thursday 16th, we should tentatively offer to give up the observer in exchange for other points desired by us and in the event of a failure to reach an agreement that we should without in any way closing the negotiations postpone further meetings, leaving the British Minister informally to continue the discussion of the matter with Wang Chung-hui and C. T. Wang until such time as the two delegations may profitably meet to draft the final agreement which could then be presented to the interested Heads of Legation for

<sup>85</sup> Telegram in five sections.

<sup>86</sup> Howard Bucknell, Jr., Second Secretary of Legation; and Joseph E. Jacobs, Consul at Shanghai.

their approval. This would in effect result in the British Minister taking over the negotiations in a purely informal way, which he is prepared to do until agreement on the points at issue have been reached at which time the foreign delegates could resume the discussions.

Since this course would involve an indefinite delay I venture to suggest the advisability of my proceeding to Peiping immediately that it becomes evident no agreement can be reached on Thursday, for a full discussion of the matter with you.

It would in this way be possible for you to arrive at a final decision with an entirely clear understanding of the position of the Chinese and of the Municipal Council in regard to the matter."

2. Legation concurs in Bucknell's opinion as expressed in paragraph 1 [2?] of his telegram under reference.

3. Following instruction is being sent Bucknell:

"January 15, 3 p. m. Your January 14, midnight [4 p. m.]. For Bucknell:

(1) Your paragraph 3. Joint instruction of interested Heads of Legation, January 10, authorized foreign delegates to give up the observer system in exchange for other points deemed necessary by the Chairman of the Council. With regard to the question of the best course to follow in the event of the Chinese rejecting proposals of the foreign delegates, the Legation cannot see its way to instruct American delegates in anticipation of the Chinese attitude and suggests that the foreign delegates despatch joint telegram reporting results of meeting and submitting such recommendations as they may agree upon.

(2) Your paragraph 4. You should now have received Legation's January 13, 7 p. m., transmitting Department's instructions for you to meet Minister Johnson at Shanghai on the 28th. Since I plan to reach Shanghai on the 26th, it may be feasible to have personal consultation by that date, and I do not believe it would be practicable for you to come to Peking in the meantime."

PERKINS

893.05/236 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 16, 1930—11 a. m.

[Received January 16—9 a. m.<sup>87</sup>]

48. Legation's 47, January 15, 3 p. m. Following from Jacobs at Nanking:

"January 15, noon. Personal for Perkins from Jacobs. I concur in Bucknell's January 14, 4 p. m. After further consultation with Council I desire to add the following with which Bucknell agrees.

1. Procurator. Even the partial introduction of the procurator makes it more necessary than ever to eliminate all hearing *in camera* and to require preliminary hearing in open court be given persons found in the Settlement who are wanted by the residing authorities before they are handed over.

<sup>87</sup> Telegram in five sections.

2. While in Shanghai during the past three days Garstin, Groenman, Koechlin,<sup>88</sup> Toussaint<sup>89</sup> and myself discussed with Arnhold and Fessenden<sup>90</sup> the Council's position vis-à-vis our negotiations.

During these discussions (confidential) the British, French and Dutch delegates attempted, in my opinion, to persuade the Council to adopt a less liberal attitude than it had previously taken, especially in regard to the procurator, the French delegate being particularly aggressive on the point. Fessenden's views reiterated, Arnhold said very little, my views remaining unchanged and were substantially as follows: In order to prevent friction, between the municipal authorities and whatever Chinese judicial forum may be established in the Settlement, the following points must get careful attention in the new agreement, failing which incidents are certain to arise which may easily lead to the necessity of intervention on the part of the powers:

- (a) Judicial police under municipal supervision;
- (b) The right of the Council to be represented and heard in court by counsel in any case in which the interests in the Settlement are involved;
- (c) No person found in the Settlement to be handed over to outside authorities without a preliminary hearing at which the Council may be represented and heard;
- (d) Complete control by the Municipal authorities of prisons in the Settlement; and
- (e) The unqualified application in the courts of the land regulations and bylaws in spite of any similar provisions that may exist or hereafter exist in Chinese law.

3. With regard to the procurator, Fessenden would prefer to see him eliminated altogether but he does not see any great danger in permitting the procurators to hear inquests and to prosecute in criminal cases concerning the security of the Settlement, provided the above-mentioned points are safeguarded.

4. With regard to (c) above, Fessenden stated that it was not the Council's desires to protect real criminals wanted by the outside authorities but that the Council did desire to protect the Chinese civic and economic life of the Settlement which is so closely interlocked with foreign interests . . .

5. With regard to (d) above, Fessenden stated that the Council alternatively had no objection to handing over Chinese prisoners convicted of crimes under the criminal code for incarceration in Chinese prisons outside of the Settlement.

6. Bucknell and I are convinced that the above points, in addition to others already conceded, taken as a whole constitute the irreducible maximum of concessions which we can recommend for your approval. We believe, regardless of the position of other representatives which in some respects is more unyielding than the above, that an agreement along these lines would satisfy the Council and would reasonably protect the peace and order of the Settlement. The time has now come in negotiations when you must envisage the failure of the

<sup>88</sup> British, Netherlands, and French Consuls General at Shanghai.

<sup>89</sup> Representing the French Legation in China.

<sup>90</sup> Chairman and Director General of the Council.

present negotiations in the event the Chinese definitely refuse to accept an agreement along the lines indicated. An expression of your views with particular reference to the last point is considered absolutely necessary to define our future course of action."

Legation's comment will follow.

PERKINS

893.05/237 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 16, 1930—3 p. m.  
[Received January 16—10:50 a. m.<sup>21</sup>]

52. Legation's 48, Jan. 16, 11 a. m.

1. I concur entirely in the opinion of our delegates, that, with the concessions already made, the points enumerated represent the extreme limit to which we can go and that the safeguards covered by these points are absolutely necessary and must be retained so long as the Settlement continues to function under its present constitution. In my opinion we should insist upon the retention of these safeguards even though a difference of opinion on the part of the foreign delegates should result in a discontinuance of the present negotiations (which I am far from being convinced will be the case). While I have not discussed with my interested colleagues the consideration of the telegram repeated in the Legation's 47, Jan. 15, 3 p. m., or of that repeated in the telegram under reference, the ground covered is not new and I feel confident that they would not be disposed to consent to any substantial modification of these safeguards.

2. With reference to Jacobs' confidential statement that the British, French and Dutch delegates attempted, in his opinion, to persuade the Council to adopt a less liberal attitude than it had previously taken, I must add that I have found nothing in my discussions with the interested Heads of Legation here to indicate that my colleagues would be disposed to sustain their delegates in insisting upon the retention of further safeguards than the Council itself deems necessary for the protection of the peace and order of the Settlement. In fact the British Minister before leaving for Nanking read to the interested Heads of Legation a telegram setting forth the views of the British Government which included a statement to the effect that the British Government did not consider that present conditions would justify the protection of Chinese against the oppression of their own courts and authorities and that it did not feel that the municipal authorities should intervene except in cases where the injustice would be so gross that the authorities could not with decency and self-respect lend their

<sup>21</sup> Telegram in three sections.

agencies to effect execution. The interested Heads of Legation apparently acquiesced in this view.

3. The Department's instructions are requested at the earliest moment possible in order that I may be in a position both to instruct the American delegates and to discuss matters generally with my interested colleagues.

PERKINS

893.05/237 : Telegram

*The Acting Secretary of State to the Chargé in China (Perkins)*

WASHINGTON, January 17, 1930—7 p. m.

19. Your 47, January 15, 3 p. m., 48, January 16, 11 a. m., and 52, January 16, 3 p. m.

1. The Department has studied these telegrams and is satisfied with the general position taken by the American delegates and the Legation as described therein.

2. The Department desires, as soon as the situation is sufficiently clarified, a statement of the points in regard to which the foreign delegates and the Chinese representatives remain in disagreement.

COTTON

893.05/239 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 22, 1930—10 a. m.

[Received January 22—12: 52 a. m.]

68. Legation's 19 [52], January 16, 3 p. m., Department's 19, January 17, 7 p. m. Following from Jacobs and Bucknell at Shanghai:

"January 21, 9 a. m.

1. Subject to possible minor modifications we have obtained an agreement which attached exchange of notes we believe adequately safeguards the points mentioned in joint instructions from Heads of Legation<sup>82</sup> and our January 14, 4 p. m., and January 15, noon.<sup>83</sup> The agreement is made subject to Heads of Legation for approval and those forwarded by foreign delegates in a joint telegram now under preparation through the British Minister.

2. In view of your departure from Peiping we are telegraphing draft agreement, as soon as it becomes final which we expect will be at a meeting this afternoon. Our own comment is also being forwarded as soon as possible.

3. If the draft agreement meets with your approval we would request instructions regarding the question which we suggest be done by interested Heads of Legation along with the unilateral declaration regarding treaty rights and future laws which we have verbally in-

<sup>82</sup> See telegram No. 1173, December 20, 1929, from the Chargé in China, *Foreign Relations*, 1929, vol. II, p. 736.

<sup>83</sup> See telegrams No. 47, January 15, and No. 48, January 16, from the Chargé in China, pp. 318 and 319.

formed Chinese representatives will be made. Draft of suggested unilateral declaration will accompany draft agreement."

Nanking's January 15, noon, was repeated as the Legation's 48, January 16, 11 a. m.

PERKINS

893.05/240 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 22, 1930—11 a. m.

[Received January 23—7:22 a. m.<sup>64</sup>]

69. My 68, January 21 [22], 10 a. m. Following from Jacobs and Bucknell:

"January 21, noon. My January 21, 9 a. m. The following are the articles of the agreement upon which agreement was reached yesterday and in which we anticipate no change. Remaining articles and notes contain only minor points of difference and will be [telegraphed?] as soon as finally agreed upon, which we expect will be after this afternoon's meeting. The following is being sent in advance to avoid congestion in transmission:

Draft agreement relating to the Chinese courts in the International Settlement at Shanghai: [Here follows text of 10 articles, slightly garbled in transmission. For correct text, as signed on February 17, 1930, see page 333.]

Note from foreign delegates to Chinese delegates: [Here follows text as signed February 17, 1930, but addressed to the Chinese Minister for Foreign Affairs, printed on page 337.]

Note from the Chinese delegates to foreign delegates: [Here follows text as signed February 17, 1930, but addressed by the Chinese Minister for Foreign Affairs to each of the foreign signatories and omitting repetition of the eight quoted points by the foreign delegates; see page 339.]

Unilateral declaration: [Here follows text addressed to the Chinese delegates; for text as signed February 17, 1930, and addressed to the Chinese Minister for Foreign Affairs, see page 341.]

Following is our comment:

Article 2. Provisions regarding applicability of land regulations and bylaws seem satisfactory provided the Chinese do not attempt to invalidate them by laws enacted after their promulgation.

Article 3 was inserted upon insistence of Chinese but we believe our position protected by unilateral declaration.

Article 5. While these provisions limit the functions of the procurator and appear to be within the scope of our instructions, the provision in the last sentence, which is definitely insisted upon by the Chinese, can possibly be a source of friction.

Article 6. Process servers were offered by British Minister in con-

<sup>64</sup> Telegram in twenty-one sections.



versation with Minister of Justice in exchange for other [vital] points and the Chinese insist upon provision for such officers. However, their duties have been so limited that we do not believe them to be objectionable. While the provision regarding judicial police is not as satisfactory as we might wish, it is the utmost the Chinese will accept and then only as a result of the British Minister's conversation above mentioned.

Article 7. This appears to be satisfactory. Chinese however urge that Legations recommend to the Municipal Council that a substantial sum be contributed towards the construction of a new Chinese prison outside the Settlement which is surprising in view of the large contribution already being made in the form of fines under the land regulations and bylaws.

Article 8. While we are not pleased with the restriction placed upon Council's representative in the second paragraph, it presents maximum of Chinese concessions.

Article 9 is the only agreement we could reach on this subject.

Article 10. Chinese are most insistent upon an almost immediate acceptance of the agreement and inauguration of the new system. We feel however that a reasonable time should be allowed to enable Settlement residents and Council to make necessary adjustments.

#### Exchange of notes:

One. Chinese positively insist upon the exclusion of mixed cases even though we are maintaining Consular representatives.

Three. See comment under article 6.

Four presents maximum concessions of Chinese regarding judgments of former courts.

Eight presents maximum Chinese will accept regarding right [apparent omission] heard mixed cases. In return for unilateral declaration Chinese refused to refer in the agreement in any way to any limitation upon future laws which necessitates [more serious?] reference therein.

At the last meeting Chinese delegates definitely informed us that the agreement and exchange of ratifications [notes] presented their final position and we therefore await instructions.

All foreign delegates are leaving tomorrow night for Shanghai to present joint views to the British Minister for transmission to Heads of Legation."

PERKINS

898.05/242 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 23, 1930—11 [3?] p. m.

[Received January 23—9:20 a. m.<sup>98</sup>]

71. Legation's 70, January 22, 6 p. m.<sup>98</sup>

1. In view of my departure today, senior interested Minister (French), called meeting of interested Heads of Legation to discuss

<sup>98</sup> Telegram in two sections.

<sup>99</sup> Not printed.

draft agreement. Telegram containing joint views of foreign delegates had not been received, presumably on account of British Minister suddenly being called from Shanghai to Hong Kong by reason of the serious illness of his wife. British representative here was not able to be present on account of scarlet fever quarantine in British Legation. Those representatives present, French, American and Dutch, were of the opinion, subject to any possible modification of views which may be necessary for carrying out of the joint telegram from delegates, that the draft agreement should be approved as representing the best terms obtainable and as sufficiently protecting the interests of the International Settlement. They accordingly agreed to ask their respective Governments to sanction approval of the agreement.

2. I accordingly request the Department's authority to instruct the American delegates, as representatives of the Legation, to sign the agreement on behalf of American Chargé d'Affaires ad interim. It is reported the Chinese delegates are extremely desirous to avoid delay. With a view to obviating the possibility of any reaction on the part of the Chinese toward a repudiation of the agreement, I request the Department to reply at the earliest opportunity.

PERKINS

893.05/247 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 25, 1930—11 a. m.

[Received January 25—7 a. m.<sup>97</sup>]

79. Legation's 71, January 21 [23], 3 p. m.

1. Following dated Shanghai, January 23, 1 p. m.

"Confidential from Jacobs and Bucknell: Following is a joint telegram sent through the British Consulate General here to the French Minister as Senior Minister but without any comment of Sir Miles Lampson who has left for Hong Kong on urgent private business:

'At 28th full session on January 21st text of a draft agreement and attached notes, which was telegraphed on January 21st to the American Legation, was concurred in by Chinese and foreign delegates subject to approval by their respective authorities and, further, subject, so far as the foreign delegates are concerned, to reservations in regard to clauses relating to procurator and process servers. At the close of the session the chief Chinese delegate manifested unreasonable impatience at prospect of delay which I think involved some [of] our Legations and even suggested that we should press for a reply within 48 hours. We pointed out that this was impossible and that we had all along made it clear that we should have to refer final text to our Lega-

<sup>97</sup> Telegram in eight sections.

tions, who in turn might have to refer to their respective Governments.

Our comments follow below:

Article 1. No comment.

Article 2. As regards future laws, we tried to carry on alternative instructions mentioned in part [*point*] 5 of the Legation's joint telegram of January 1st,<sup>98</sup> but the Chinese insisted on reference in the agreement to Chinese laws without any starred statement in the agreement or elsewhere that a reasonable period must elapse between the promulgation and enforcement of future laws.

Article 3. No comment.

Article 5. In view of insistence of Chinese and of Legation's joint instructions of January 1st, point 4, we could not say that we refused the procurator altogether, but we have limited his powers as far as we could. It will be noted however that in addition to the right of prosecution in certain cases, even under chapter 7 of part 2 of the criminal code, the Chinese insist upon the right of the procurator to express his views in court in all criminal cases. We informed the Chinese that we could not recommend the latter point to our Legations since it appears to us to give the Chinese Government through the procurator undue influence over the judges in judicial proceedings in which the municipal police prosecute.

Article 6. It is admitted that this article lacks precision but this results from an attempt to find a compromise between conflicting views. For instance we tried to limit the handing over of Chinese to those cases where the crime had been committed outside the Settlement but the Chinese declined to accept such a limitation (which they said was contrary to Chinese law) in spite of warning of possible future trouble should any attempt be made to hand over to the extra-Settlement authorities a Chinese charged with commission of an offense in the Settlement. As regards preliminary investigations the formula arrived at is the maximum concession the Chinese would agree to make, but, since the chief Chinese delegate verbally assured us that the Municipal Council could be represented in such proceedings in accordance with article 8, this formula is not entirely unsatisfactory.

With regard to process servers the arrangement arrived at goes beyond the Legation's joint instructions of January 1st, point 9. Some of the delegates felt that this was necessary if we were ever to induce the Chinese to agree to a tentative draft while others thought that we were going too far and felt, with the Chairman of the Council, that an independent body of process servers would lead to abuses. As a result [of such?] divergence of opinion we informed the Chinese that all the delegates could not recommend to their Legations the appointment of process servers independently of the Municipal Council.

Article 7. The Chinese delegates in agreeing to this article asked us to recommend to the Municipal Council that a substantial lump-

<sup>98</sup> See telegrams No. 1173, December 20, 1929, and No. 18, January 4, 1930, from the Chargé in China, *Foreign Relations*, 1929, vol. II, pp. 736 and 744.

sum be set aside for the construction by the Chinese authorities of a modern prison outside the Settlement. We replied that although it was not within our province to make such recommendation we would mention their request to our Legations. We also pointed out that the Municipal Council was now contributing to the upkeep of the provisional court a considerable sum in the form of fines under the land regulation[s] and bylaws which under article 14 of said regulations properly belongs to the Council.

Article 8. Since the provision in paragraph 2 is the *quid pro quo* secured for giving up the consular observer who had access to the judge in chambers we feel that the restriction placed upon the Council's lawyer which prevents him from pleading orally is too narrow. Although it permits the Council to know what is going on, it does not permit the publicity denied by [to?] the Council.

Article 9. No comment.

Article 10. The Chinese seem set on having the agreement signed and in force on or about February 1st, but we feel that this does not allow the residents of the Settlement and the Council time to make their necessary adjustments.

Exchange of notes:

Paragraph 1. No comments.

Paragraph 2. French delegation reserved their adhesion to this paragraph as at present worded.

Paragraph 3. It will be noted from this paragraph when taken together with article 6 that the control exercised by the Municipal Council over the judicial police has become dangerously attenuated and may be a source of embarrassment to the Council unless the Chinese authorities administer the new courts strictly in good faith.

Paragraph 4 to 8. No comment.

Unilateral declaration in the text telegraphed to the American Legation. We have attempted to give effect to the Legation's instructions relating to unilateral declaration given in their joint telegram of January 1st, points 5, 6, 7 and 8. As the Chinese delegates stated that, [while they?] could not prevent the powers concerned from making unilateral declaration, they were not concerned therewith. We did not therefore communicate to them its terms in full and they indicated that if it were addressed to the Chinese delegates they might not be in a position to receive it.

French delegation has said they insisted that this declaration must be in the form of a written note joined to the agreement.

Foreign delegates are still in Shanghai and should there be any further instructions for them they will be grateful if they can be addressed to Shanghai.'"

For the Chargé d'Affaires ad interim:

HEWES

893.05/248 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 25, 1930—1 p. m.

[Received January 25—10:25 a. m.<sup>89</sup>]

80. Following is joint telegram from foreign delegates dated Shanghai, January 24, to senior interested Minister:

"At a meeting of the foreign delegates held here today the question was raised as to whether the Chairman of the Municipal Council might not appreciate our informing him, at any rate verbally, of the terms of the draft agreement of which our text was telegraphed by the United States Consular Bureau, Nanking, on January 21, to the American Legation.

Would you have any objection?

Just before the delegates left Nanking Mr. Hsu informed them that he desired that the last clause in the second paragraph of article 6 [apparent omission] amended to read: 'Except in the case of requests emanating from other modern law courts when the accused may, after his identity has been established, be handed over by court.'

Since the Chinese delegates accepted the text as originally telegraphed and since the proposed amendment provides for no proceedings in court to establish the identity (which means that the municipal police attorney will be excluded), the foreign delegates are strongly of the opinion that the proposed amendment should not be accepted."

The Department will be promptly informed of any decision arrived at by the interested Heads of Legation who have not yet considered the matter.

For the Chargé d'Affaires ad interim:

HEWES

893.05/246 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 25, 1930—3 p. m.

[Received January 25—10:30 a. m.]

84. My 80, January 25, 1 p. m.

1. I have received a note of January 24 from the French Minister transmitting the following from the foreign delegates:

"Please note that Hsu Mo wants the amendment of the last part of the second paragraph of article 6 to read as follows: 'Except in the case of requests emanating from other modern law courts when the accused may, after his identity be established, be handed over to the court.'"

And the following (in translation) dated January 25:

"I propose (1) that the Chairman of the Municipal Council be verbally made *au courant* as to the terms of the draft agreement sub-

<sup>89</sup> Telegram in two sections.

mitted for our examination by our delegates; (2) that our delegates inform Mr. Hsu that the amendment which he desires in paragraph 2 of article 6 is not acceptable to the heads of the interested Legations."

2. I have informed Count de Martel that I concur in his suggestions, to be telegraphed to the foreign delegates through the British Legation.

For the Chargé d'Affaires:

HEWES

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893.05/251 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, January 28, 1930—noon.

[Received January 28—1:25 a. m.]

The following from Perkins: In view of the Minister's arrival today I shall be glad to receive soon as possible the Department's instructions as requested in the Legation's No. 71 of January 23, 3 p. m.

CUNNINGHAM

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893.05/240 : Telegram

*The Acting Secretary of State to the Consul General at Shanghai (Cunningham)*

WASHINGTON, January 28, 1930—5 p. m.

Following for Perkins as Department's No. 37: Your 69, January 22, 11 a. m., as corrected in subsequent telegrams.

1. (a) Paragraph 1. The Department conditionally authorizes the American delegates to sign, on behalf of the American Chargé d'Affaires ad interim, the Agreement set forth in your 69, January 22, 11 a. m., as corrected in your 70, January 22, 6 p. m., and 77, January 24, 6 p. m.<sup>1</sup> The conditions upon which Department's authorization is predicated follow:

(b) After the second sentence of Article 2 insert the following sentence or a sentence providing an equivalent safeguard, "The Land Regulations and By-Laws of the International Settlement shall be changed only with the assent of the parties signatory to this Agreement".

(c) Article 8. If any Chinese laws or regulations exist that would exclude from practice in the new courts of the International Settlement foreign lawyers having extraterritorial status, the Department believes that it would be highly desirable to obtain from the Chinese

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<sup>1</sup> Latter two not printed.

delegates consent to amend this sentence so as to obviate possibility of the exclusion from practice of foreign lawyers having extraterritorial status. The wording of the last paragraph of Article 8 makes possible the inference that such lawyers who apply for certificates authorizing them to practice in the new courts will be required to divest themselves in part of their extraterritorial status. In order to obviate this possibility the Department believes it is highly desirable to make changes in phraseology so that the passage in question shall read "and shall conform to Chinese laws and regulations controlling the practice of law, including those governing disciplinary punishments of lawyers".

(d) Note from foreign delegates to Chinese delegates, Item 1. The Department infers that this passage is intended to bring about the following situation: the new courts will have jurisdiction over Chinese and non-extraterritorial foreigners in the International Settlement and over extra-Settlement roads, while the two categories of mixed cases described when arising outside the Settlement will be tried in Chinese courts likewise outside the International Settlement. If this inference is correct, the Department approves Item 1. The Department does not, however, understand the Legation's comment "Even though we are maintaining consular representatives".

(e) The first of the conditions listed above is the only one which the Department considers of fundamental importance.

2. Department was on the point of despatching a telegram with the above content on January 25, when it received seriatim the Legation's telegrams 79, January 25, 11 a. m., 80, January 25, 1 p. m., and 84, January 25, 3 p. m., containing additional comments by the delegates. The Department has now studied these telegrams. While there is nothing in the later messages that leads the Department to alter its views as set forth in Paragraph 1 above, the Department suggests that you consult with the American Minister.

3. Your telegram of January 28, noon, received.

COTTON

893.05/256 : Telegram

*The Minister in China (Johnson) to the Secretary of State*<sup>2</sup>

SHANGHAI, January 30, 1930—6 p. m.

[Received January 30—10:30 a. m.]

Perkins' telegram of January 28, noon, concerning new court agreement. I have now had opportunity to read draft agreement and annexed exchange of notes and agree with Perkins that this draft agreement represents an acceptable settlement of this most important

<sup>2</sup> The Minister presented his credentials at Nanking on February 1, 1930.

[matter]. I am informed that the British Minister has telegraphed his Foreign Office that unless instructed to the contrary he is authorizing British delegates to sign. He will be in Nanking on February 1st at the time appointed for me to present my credentials and he will doubtless desire information as to our attitude. Bucknell informs me that Minister of Foreign Affairs will expect person signing agreement to exhibit full powers, in others he will desire signature by Ministers. I hope that we can receive early information of the Department's favorable attitude and shall inform the British Minister that, insofar as I am concerned, provided the Department does approve, I shall myself be prepared to sign the agreement. I feel that signature by the chiefs of mission would be preferable to signature by the delegates, first, because this is what the Chinese Minister for Foreign Affairs has wanted from the beginning, but also the signatures of the chiefs of missions would be desirable from our point of view as it would give importance to this agreement above that under which cooperation in the Settlement has been obtained in the past.

I desire to take this opportunity to say that I feel most decidedly that both Bucknell and Jacobs have done a very constructive and worthwhile piece of work in this matter. Information which I have received since my arrival indicates that they have contributed more than their share to the successful consummation of these delicate negotiations.

JOHNSON

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893.05/256 : Telegram

*The Acting Secretary of State to the Consul General at Shanghai  
(Cunningham)*

WASHINGTON, January 30, 1930—5 p. m.

Following for Perkins as Department's No. 43:

1. Inform the American Minister Department has received his telegram of January 30, 6 p. m. In reply thereto the Department refers to its telegram to you No. 37 of January 28, 5 p. m., paragraph 1 (b). While Department feels that it would be highly desirable to incorporate in the agreement a safeguard against attempted modification of the Land Regulations and By-laws through Chinese legislation, the Department is prepared to accept whatever the Minister may decide in this as well as the other points mentioned in the Department's telegram No. 37. The Minister may therefore in his discretion sign the agreement after he has presented his letter of credence.

2. Please inform Jacobs and Bucknell that Department commends them for the patience, energy and ability displayed by them in the court negotiations now brought to a successful conclusion.

COTTON



893.05/263 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

NANKING, February 2, 1930—midnight.

[Received February 2—6:15 p. m.]

Department's telegram No. 37, January 28, 5 p. m. As instructed by me, Perkins and Bucknell have discussed proposed amendments with the British Minister. His attitude is that it would be extremely unlikely that the Chinese would accept modifications proposed, and that, should they be disposed to consider them, they would be certain to introduce changes on their own account, thus reopening the whole matter and jeopardizing an agreement, which, if not ideal, does sufficiently protect both foreign interests and the peace and order of the settlement. Lampson feels therefore that it would be highly dangerous to make suggested proposals and he, for his part, would not be willing to support us in so doing. Thus we should be left alone in endeavoring to obtain changes in a text which satisfies the British Government, and so far as I am aware, also satisfies the other governments concerned.

The agreement has been obtainable only after the most painstaking efforts throughout twenty-eight meetings by the delegates, and I am strongly inclined to share the views of the British Minister that it is best for us to sign the agreement as it stands.

British Minister is prepared to sign himself and I hope that the Department will see the situation as we see it, and will therefore authorize me to join British Minister in signing this agreement as it was.

I had planned to leave Shanghai for Peiping on Wednesday morning, February 5, but in view of the importance of settling this question at the earliest possible moment, I shall delay my departure for a day in the hope that the Department will instruct me to sign the agreement as it stands. I would appreciate the Department giving me this authorization within next 24 hours.

JOHNSON

893.05/263 : Telegram

*The Acting Secretary of State to the Consul General at Shanghai (Cunningham)*

WASHINGTON, February 3, 1930—11 a. m.

Following for Johnson as Department's No. 45: Your telegram February 2, midnight, received. Apparently you had not then received the Department's telegram 43, January 30, 5 p. m., which authorized you in your discretion to sign the court agreement. The

Department is gratified that you are not to be the only Minister signing this document.

COTTON

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893.05/267 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, February 13, 1930—5 p. m.

[Received February 13—1:05 p. m.]

126. Department's 51, February 11 [10], 5 p. m.<sup>3</sup> In discussion with the British Minister at Nanking we both consider[ed] it highly desirable that the chiefs of mission concerned should sign the court agreement since we believed its terms would be better safeguarded if it were signed both by the Minister for Foreign Affairs and the interested Ministers. In view, however, of the physical difficulties in the way of obtaining the simultaneous signatures of all concerned, it has been found necessary to abandon this plan, and we are now agreed that the agreement be signed at Nanking on February 17 by the duly authorized representatives of the interested heads of mission and by a representative of the Minister for Foreign Affairs who will sign in the name of their respective chiefs. On February 10 Dr. Wang agreed to give British Minister a reply stating that he accepted the agreement and April 1st as the date of its coming into effect. Upon being informed that the British Minister has received a letter from Wang to this effect, the interested Heads of Legation will designate their representatives and instruct them to proceed to Nanking to sign on the appointed date. It is my intention to authorize Jacobs to sign in my behalf.

JOHNSON

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Executive Agreement Series No. 37

*Agreement Relating to the Chinese Courts in the International Settlement at Shanghai, Signed February 17, 1930*<sup>4</sup>

ARTICLE I

From the date on which the present Agreement comes into force, all former rules, agreements, exchanges of notes et cetera having special reference to the establishment of a Chinese court in the International Settlement at Shanghai shall be abolished.

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<sup>3</sup> Not printed.

<sup>4</sup> In English and Chinese; Chinese text not printed.

## ARTICLE II

The Chinese Government shall, in accordance with Chinese laws and regulations relating to the judiciary and subject to the terms of the present Agreement, establish in the International Settlement at Shanghai a District Court (Ti Fang Fa Yuan) and a Branch High Court (Kao Teng Fa Yuan Fen Yuan). All Chinese laws and regulations, substantive as well as procedural, which are now in force, or which may hereafter be duly enacted and promulgated shall be applicable in the Courts, due account being taken of the Land Regulations and Bye-Laws of the International Settlement, which are applicable pending their adoption and promulgation by the Chinese Government, and of the terms of the present Agreement.

Judgments, decisions and rulings of the Branch High Court are subject to appeal, according to Chinese law, to the Supreme Court of China.

## ARTICLE III

The former practice of Consular deputies or Consular officials appearing to watch proceedings or to sit jointly in the Chinese court now functioning in the International Settlement shall be discontinued in the Courts established under the present Agreement.

## ARTICLE IV

When any person is arrested by the municipal or judicial police, he shall, within twenty-four hours, exclusive of holidays, be sent to the Courts established under the present Agreement to be dealt with, failing which he shall be released.

## ARTICLE V

The Courts established under the present Agreement shall each have a certain number of procurators to be appointed by the Chinese Government, who shall hold inquests and autopsies (Chien Yen) within the jurisdiction of these Courts and shall otherwise perform their functions in accordance with Chinese law in all cases involving the application of Articles 103 to 186 of the Chinese Criminal Code, except where the Municipal Police of the International Settlement or the party concerned has already initiated prosecution, provided that all preliminary investigations conducted by the procurator shall be held publicly and counsel for the accused shall have the right to be present and heard.

In other cases arising within the jurisdiction of the Courts, the Municipal Police or the party concerned shall prosecute. The procurator shall have the right to express his views in court in all criminal

cases in which the prosecution is initiated by the Municipal Police or the party concerned.

#### ARTICLE VI

All judicial processes, such as summonses, warrants, orders, et cetera, shall be valid only after they have been signed by a judge of the Courts established under the present Agreement, whereupon they shall be served or executed by the judicial police or, as provided below, by the process-servers thereof.

No person found in the International Settlement shall be handed over to the extra-Settlement authorities without a preliminary investigation in court at which counsel for the accused shall have the right to be present and heard, except in the case of requests emanating from other modern law courts when the accused may be handed over after his identity has been established by the Court.

All judgments, decisions and rulings of the Courts shall be executed as soon as they become final as a result of the judicial procedure in force in the said Courts. Whenever necessary, the Municipal Police shall render any assistance within their power as may be requested of them.

The process-servers of the Courts shall be appointed by the Presidents of the Courts respectively and their duties shall be to serve all summonses and deliver other documents of the Courts in connection with civil cases. For the execution of judgments in civil cases, the process-servers shall be accompanied by the judicial police. The officers and members of the judicial police of the Courts shall be appointed by the President of the Branch High Court upon the recommendation of the Municipal Council and shall be subject to dismissal by the President of that Court upon cause shown. Their services will also be terminated by the President at the request of the Municipal Council upon cause shown. They shall wear the uniform designed by the Chinese judicial authorities, and shall be subject to the orders and direction of the Courts and faithful to their duties.

#### ARTICLE VII

The House of Detention for civil cases and the Women's Prison attached to the Chinese court now functioning in the International Settlement at Shanghai shall be transferred from that court to the Courts established under the present Agreement and shall be supervised and administered by the Chinese authorities.

All prisoners now serving sentences in the prisons attached to the Chinese court now functioning in the International Settlement and those sentenced by the Courts established under the present Agreement shall, at the discretion of the said Courts, serve their sentences either

in such prisons in the Settlement or in Chinese prisons outside the Settlement, except that offenders against the Police Offences Code and the Land Regulations and Bye-Laws and persons under arrest awaiting trial shall serve their periods of detention in the Settlement. The prisons in the Settlement shall be operated, as far as practicable, in conformity with Chinese prison regulations and shall be subject to inspection, from time to time, by officers appointed by the Chinese judicial authorities.

Persons sentenced to death by the Courts established under the present Agreement shall be sent to the Chinese authorities outside of the Settlement for execution of such sentence.

#### ARTICLE VIII

Foreign lawyers duly qualified will be admitted to practice in the Courts established under the present Agreement in all cases in which a foreigner is a party, provided such foreign lawyer can only represent the foreign party concerned. The Municipal Council may also be represented in the same manner by duly qualified lawyers, Chinese or foreign, in any proceedings in which the Council is complainant or plaintiff or the Municipal Police is the prosecutor.

In other cases or proceedings in which the Council considers the interests of the Settlement to be involved, it may be represented by a duly qualified lawyer, Chinese or foreign, who may submit to the Court his views in writing during the proceedings and who may, if he deems necessary, file a petition in intervention in accordance with the provisions of the Code of Civil Procedure.

Foreign lawyers who are entitled to practice under this Article in the above-mentioned Courts shall apply to the Ministry of Justice for lawyers' certificates and shall be subject to Chinese laws and regulations applicable to lawyers, including those governing their disciplinary punishment.

#### ARTICLE IX

Four permanent representatives shall be appointed, two by the Chinese Government and two by the Governments of the other Powers signatory to the present Agreement, who together shall seek to reconcile such differences of opinion regarding the interpretation or application of the present Agreement as may be referred to them by the President of the Branch High Court or by the authorities of the signatory foreign Powers, provided that their Report shall have no binding force upon either party except by mutual consent, it being understood that no judgments, decisions, rulings or orders of the Courts, as such, shall be referred to the aforesaid representatives for consideration.

## ARTICLE X

The present Agreement and the attached Notes<sup>5</sup> shall enter into effect on April 1st, 1930 and shall continue in force for a period of three years from that date, provided that they may be extended for an additional period upon mutual consent of the parties thereto.

NANKING, February 17, 19th Year R.C. (1930).

Hsu Mo

on behalf of the Minister for Foreign Affairs

J. DE PINTO DIAZ

on behalf of the Brazilian Chargé d'Affaires

In the name of the American Minister,

JOSEPH E. JACOBS

W. MEYRICK HEWLETT

on behalf of His Britannic Majesty's Minister

L. GRONVOLD

on behalf of the Norwegian Chargé d'Affaires

F. E. H. GROENMAN

on behalf of the Netherlands chargé d'affaires

In the name of the French Minister:

E. KOECHLIN

[SEAL OF THE MINISTRY OF FOREIGN AFFAIRS]

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Executive Agreement Series No. 37

*The Foreign Signatories to the Chinese Minister for Foreign Affairs  
(C. T. Wang)*

NANKING, February 17, 1930.

SIR: With reference to the Agreement which we have signed to-day concerning the establishment of a District Court and a Branch High Court in the International Settlement at Shanghai, we have the honour to request your confirmation of our understanding on the following points:

1. It is understood that the Courts established under the present Agreement shall exercise jurisdiction over civil and criminal cases as well as police offences and inquests in the International Settlement at Shanghai, provided that the jurisdiction of the said Courts over persons shall be the same as that of other Chinese Courts and provided that their territorial jurisdiction shall be the same as that of the

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<sup>5</sup> *Infra.*

Chinese court now functioning in the International Settlement at Shanghai, except (a) mixed criminal cases arising on private foreign property outside the limits of the Settlement and (b) mixed civil cases arising in areas surrounding the Settlement.

2. It is understood that the present practice regarding the respective jurisdictions of the Chinese court now functioning in the International Settlement and the Court existing in the French Concession shall be followed, pending a definite arrangement between the Chinese Government and the authorities concerned.

3. It is understood that as far as practicable Chinese shall be recommended by the Municipal Council to serve as officers and members of the judicial police of the Courts established under the present Agreement. It is further understood that among the officers of the judicial police appointed by the President of the Branch High Court under Article VI of the present Agreement, there will be one to be designated by the Municipal Council, to whom will be allotted by the President an office on the Court premises and who will make an entry of all judicial processes of the Courts, such as summonses, warrants, orders and judgments, for the purpose of service or execution in accordance with the provisions of the above-mentioned Article.

4. It is understood that the establishment of the Courts provided for in the present Agreement in no way affects the validity of judgments rendered by the Chinese court now functioning in the International Settlement and its predecessor, and that such judgments shall be considered as final and valid except where an appeal has been lawfully taken or reserved. It is further understood that the judgments of the Courts established under the present Agreement shall be on the same footing as regards validity as the judgments of all other Chinese Courts.

5. It is understood that the present Agreement does not in any way affect or prejudice any future negotiations regarding the status of extra-Settlement roads.

6. It is understood that the sum of sixty thousand dollars (\$60,000) now on deposit with the Bank of China to the credit of the present Chinese court in the International Settlement shall be maintained by the Chinese Government to the credit of the new Courts established under the present Agreement.

7. It is agreed that in accordance with Chinese law, there shall be maintained by the Courts established under the present Agreement, a storage room for articles confiscated by the Courts, which remain the property of the Chinese Government, it being understood that confiscated opium and instruments for the smoking and preparation thereof shall be burned publicly in the International Settlement every three months and that the Municipal Council may present to the Presidents of the Courts for transmission to the Ministry of Justice such

suggestions as it may desire to make regarding the disposal of confiscated arms.

8. It is understood that upon the coming into force of the present Agreement, all cases pending in the Chinese court now functioning in the International Settlement shall be dealt with in the Courts established under the present Agreement in accordance with the procedure in force in the latter Courts, provided that the proceedings in mixed cases shall, as far as practicable, be continued from the point where they are taken over and concluded within a period of twelve months which period may be extended at the discretion of the Courts when the circumstances in any case so warrant.

We avail ourselves [etc.]

J. DE PINTO DIAZ

on behalf of the Brazilian Chargé d'Affaires

In the name of the American Minister,

JOSEPH E. JACOBS

W. MEYRICK HEWLETT

on behalf of His Britannic Majesty's Minister

L. GRONVOLD

on behalf of the Norwegian Chargé d'Affaires

F. E. H. GROENMAN

on behalf of the Netherlands chargé d'affaires

In the name of the French Minister:

E. KOECHLIN

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Executive Agreement Series No. 37

*The Chinese Minister for Foreign Affairs (C. T. Wang) to Each of the Foreign Signatories*

NANKING, February 17, 1930.

SIR: I have the honour to acknowledge the receipt of your Note referring to the Agreement which we have signed to-day concerning the establishment of a District Court and a Branch High Court in the International Settlement at Shanghai, in which you request my confirmation of the following points:

"1. It is understood that the Courts established under the present Agreement shall exercise jurisdiction over civil and criminal cases as well as police offences and inquests in the International Settlement at Shanghai, provided that the jurisdiction of the said Courts over persons shall be the same as that of other Chinese Courts and provided that their territorial jurisdiction shall be the same as that of the Chinese court now functioning in the International Settlement at Shanghai, except (a) mixed criminal cases arising on private for-



eign property outside the limits of the Settlement and (b) mixed civil cases arising in areas surrounding the Settlement.

"2. It is understood that the present practice regarding the respective jurisdictions of the Chinese court now functioning in the International Settlement and the Court existing in the French Concession shall be followed, pending a definite arrangement between the Chinese Government and the authorities concerned.

"3. It is understood that as far as practicable Chinese shall be recommended by the Municipal Council to serve as officers and members of the judicial police of the Courts established under the present Agreement. It is further understood that among the officers of the judicial police appointed by the President of the Branch High Court under Article VI of the present Agreement, there will be one to be designated by the Municipal Council, to whom will be allotted by the President an office on the Court premises and who will make an entry of all judicial processes of the Courts, such as summonses, warrants, orders and judgments, for the purpose of service or execution in accordance with the provisions of the above-mentioned Article.

"4. It is understood that the establishment of the Courts provided for in the present Agreement in no way affects the validity of judgments rendered by the Chinese court now functioning in the International Settlement and its predecessor, and that such judgments shall be considered as final and valid except where an appeal has been lawfully taken or reserved. It is further understood that the judgments of the Courts established under the present Agreement shall be on the same footing as regards validity as the judgments of all other Chinese Courts.

"5. It is understood that the present Agreement does not in any way affect or prejudice any future negotiations regarding the status of extra-Settlement roads.

"6. It is understood that the sum of sixty thousand dollars (\$60,000) now on deposit with the Bank of China to the credit of the present Chinese court in the International Settlement shall be maintained by the Chinese Government to the credit of the new Courts established under the present Agreement.

"7. It is agreed that in accordance with Chinese law, there shall be maintained by the Courts established under the present Agreement, a storage room for articles confiscated by the Courts, which remain the property of the Chinese Government, it being understood that confiscated opium and instruments for the smoking and preparation thereof shall be burned publicly in the International Settlement every three months and that the Municipal Council may present to the Presidents of the Courts for transmission to the Ministry of Justice such suggestions as it may desire to make regarding the disposal of confiscated arms.

"8. It is understood that upon the coming into force of the present Agreement, all cases pending in the Chinese court now functioning in the International Settlement shall be dealt with in the Courts established under the present Agreement in accordance with the procedure in force in the latter Courts, provided that the proceedings in mixed cases shall, as far as practicable, be continued from the point where they are taken over and concluded within a period of twelve

months which period may be extended at the discretion of the Courts when the circumstances in any case so warrant."

In reply I have the honour to confirm the understanding of the points as quoted above.

I avail myself [etc.]

Hsu Mo  
on behalf of the Minister for Foreign Affairs

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Executive Agreement Series No. 37

*Unilateral Declaration of the Foreign Signatories to the Chinese  
Minister for Foreign Affairs (C. T. Wang)*

NANKING, CHINA, February 17, 1930.

EXCELLENCY: With reference to the Agreement which we have signed today establishing a new Chinese judicial system in the International Settlement at Shanghai, we desire to point out that such Agreement cannot in any way affect or invalidate rights guaranteed to the Powers concerned and to their nationals under existing treaties between such Powers and China and we accordingly reserve our full rights in this regard.

We further reserve the right to object to the enforcement in the International Settlement of any future Chinese laws that affect or in any way invalidate the Land Regulations or Bye-Laws of the International Settlement or that may be considered prejudicial to the maintenance of peace and order within this area.

We avail ourselves [etc.]

J. DE PINTO DIAZ

on behalf of the Brazilian Chargé d'Affaires

In the name of the American Minister,

JOSEPH E. JACOBS

W. MEYRICK HEWLETT

on behalf of His Britannic Majesty's Minister

L. GRONVOLD

on behalf of the Norwegian Chargé d'Affaires

F. E. H. GROENMAN

on behalf of the Netherlands chargé d'affaires

In the name of the French Minister:

E. KOECHLIN

893.05/276 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 7, 1930—noon.  
[Received March 7—8:35 a. m.]

181. With reference to the designation of two representatives of the powers signatory to the provisional court agreement as provided in article 9 of the agreement, Cunningham has telegraphed as follows:

"March 6, 3 p. m. The matter was discussed with the Minister and he suggested that desirable foreign representatives would be the judges of the British Supreme Court and of the United States Court. He recommends that you get the Department's approval and then discuss this with the British Minister and if he and the other interested Ministers approve, he will seek to obtain Judge Purdy's consent to serving on such a committee."

For the Minister:  
PERKINS

893.05/276 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, March 12, 1930—10 a. m.

90. Your 181, March 7, noon. Department approves, provided the Chinese representatives are of correspondingly high position.

COTTON

893.05/278 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 14, 1930—4 p. m.  
[Received March 14—1:15 p. m.<sup>6</sup>]

194. 1. Following message from the Minister received through American Consul General at Shanghai:

"Please inform interested Ministers that I have today discussed with C. T. Wang question of appointment of Chinese official to facilitate implementing court agreement. Dr. Wang has appointed Hsu Mo as his representative for this purpose and asks that interested Ministers appoint representatives, preferably those who negotiated agreement, to discuss questions with China's representative. I for my part am prepared to appoint Jacobs for this purpose insofar as American interests are concerned."

2. I have sent the following reply:

"March 14, 3 p. m. (1) Your March 13, 5 p. m., for the Minister. Minister Johnson's telegram was discussed at meeting today of inter-

<sup>6</sup>Telegram in two sections.

ested diplomatic representatives (American, Brazilian, British, Dutch and French); Japanese representative also present. It was agreed that foreign representation to facilitate implementing court agreement should consist of committee of two members, Brennan<sup>7</sup> and Jacobs.

(2) I was requested to suggest that, if you concurred in this arrangement, you notify Minister of Foreign Affairs on behalf of interested Heads of Legation. Department informed. Repeated to Nanking."

For the Minister:  
PERKINS

893.05/298

*Memorandum by the Minister in China (Johnson), of a Conversation  
With the British Minister in China (Lampson)*<sup>8</sup>

[PEIPING,] March 20, 1930.

In the course of conversation with the British Minister today, Sir Miles asked me whether I had arranged for the use of the judges on the Commission provided for in the Provisional Court Agreement. I said no, this was a matter I wished to speak to him about. I said I had gone to C. T. Wang, and in the course of a conversation with him, I had explained that it was our desire to make this Commission as dignified as possible and we had some idea of using the judges of the two courts. I said that C. T. Wang had, without any hesitation and with every indication that his mind was already made up on the subject, stated that it was their purpose to appoint Mr. Hsu Moh, Chief of the Division of American and European Affairs in the Foreign Office, who had the rank of Assistant Minister, and Mr. Chien T'ai, a Counsellor in the Judicial Yuan who had the rank of Minister, as the Chinese representatives on this Commission. . . .

I told Sir Miles that I had called Mr. Jacobs into the conference and that I had learned from Mr. Jacobs that it had been the original idea to make of this Committee a kind of liaison between the consular authorities in the Settlement and the Chinese, and that Mr. Jacobs had also informed me that both Hsu Moh and Chien T'ai had been Chinese delegates to the Conference on the revision of the Provisional Court Agreement. I stated that, in my opinion, and in view of the Chinese proposal to appoint their recent delegates to serve on this Committee, it would serve our purpose if members of our delegation were also appointed.

Sir Miles suggested that we make a formal request of C. T. Wang to state who would be the Chinese appointees, whereupon we could

<sup>7</sup> John Fitzgerald Brennan, British Consul General at Shanghai.

<sup>8</sup> Copy transmitted to the Department without covering despatch; received May 8, 1930.

take action. I agreed to this. He also agreed with me, that if the Chinese delegates were appointed, it would be sufficient to name men like Jacobs and Brennan on our side.<sup>9</sup>

893.05/293

*The Consul General at Shanghai (Cunningham) to the Minister in China (Johnson)*<sup>10</sup>

No. 6458

SHANGHAI, April 16, 1930.

SIR: Referring to this Consulate General's despatch No. 6438 of March 28, 1930,<sup>11</sup> relative to the implementing of the new court agreement, I have the honor to enclose, for the Legation's information, a copy of a supplemental memorandum on this subject by Consul General J. F. Brennan and Consul J. E. Jacobs,<sup>12</sup> representing the Legations concerned, the original of which is being sent through the Senior Consul concerned to the Senior Minister concerned. This memorandum is not only supplemental to that transmitted with my despatch above referred to but is the final memorandum of Messrs. Brennan and Jacobs on this subject since all the matters connected with the implementing of the new court agreement have now been concluded.

In spite of the fear expressed in the last paragraph of my despatch referred to, that there might be some difficulty in connection with the inauguration of the new courts on April 1, 1930, the Chinese authorities appointed the Presidents of the two new courts on March 30th and the inauguration ceremonies took place, as scheduled, on April 1st. Since their inauguration these courts have functioned satisfactorily although the Prosecutor for the Police states that there is still some confusion incident to the necessary readjustments in the personnel and procedure. Two questions, however, did arise in regard to the recording of processes of the new courts served by the Process Servers and in connection with the service of criminal summonses by these officers which were referred by the Senior Consul concerned to Messrs. J. F. Brennan and J. E. Jacobs, the foreign members of the Permanent Committee Constituted under Article IX of the new Agreement. They succeeded in effecting an informal settlement of these questions with the President of the Branch High Court without an actual meeting of the Permanent Committee. The reason for an informal settlement of this kind was the attitude of the Chinese members of the Permanent Committee as regards the proper procedure for referring such ques-

<sup>9</sup> Messrs. Hsu and Chien, for China, and Brennan and Jacobs, for the other signatories, were duly appointed.

<sup>10</sup> Copy transmitted to the Department by the Consul General in his despatch No. 6868, April 16, 1930; received May 8.

<sup>11</sup> Not printed.

tions to the Committee. This difficulty will be the subject of a communication from the Senior Consul concerned to the Senior Minister concerned in order that the procedure may be regularized for the future.

With reference to the Permanent Committee constituted under Article IX of the agreement, it is not believed that this Committee will be of much assistance in settling disputes which may arise out of the operation of the new agreement. As constituted under the agreement it is nothing more than an advisory board whose recommendations may or may not be adopted by the Chinese and foreign authorities concerned. It would seem, therefore, that the most expeditious way of settling such disputes will be through the medium of formal and informal representations to the Presidents of the two new courts which has already worked satisfactorily as pointed out in the above paragraph.

Although the new courts have only been functioning for about two weeks, it is believed that the relations between the authorities of these courts and of the International Settlement will be friendly and mutually helpful if the same conciliatory spirit which has characterized their mutual efforts for the past two weeks continues.

I have [etc.]

EDWIN S. CUNNINGHAM

#### AMERICAN INTEREST IN PROBLEMS AFFECTING THE INTERNATIONAL SETTLEMENT AT SHANGHAI

893.102 S/217 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 13, 1930—3 p. m.

[Received January 14—11:05 a. m.<sup>12</sup>]

42. My 1203, November [December] 30, [1929,] 2 p. m., last sentence.<sup>13</sup>

1. Following is translation of reply of Ministry of Foreign Affairs:

"I have the honor to acknowledge the receipt of Your Excellency's telegram concerning the request of the Shanghai Power Company for the stamping of deeds.

The matter of the stamping and issuance of deeds has been turned over by the Bureau of Survey to the Special Municipal Council of Shanghai for action. It is requested that the company be instructed to communicate direct with the Municipal Council concerning the matter."

2. Although this reply superficially appears innocuous, I am inclined to question the advisability of accepting the procedure sug-

<sup>12</sup> Telegram in two sections.

<sup>13</sup> Not printed.

gested in the Ministry's final paragraph, since, following the abolition of the Bureaus of Foreign Affairs<sup>14</sup> and the promulgation of the mandate of December 28,<sup>15</sup> I am apprehensive lest, by having the American individual rate[payers?] and companies concerned negotiate directly with the Chinese officials in individual cases, the Ministry's position implying that foreign Consuls shall no longer have the right to intervene on behalf of their nationals (see procedure transmitted in Legation's 809 of September 10, 5 p. m.,<sup>16</sup> especially articles 2, 3, and 8) appear to have been acquiesced in by the Legation. Furthermore, the importance of the interests involved would seem to make it likely that any precedent created at this time will prove a decisive factor in determining procedure in similar cases affecting American interests. Department's instructions by naval radio are respectfully requested.

PERKINS

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893.102 S/217: Telegram

*The Acting Secretary of State to the Chargé in China (Perkins)*

WASHINGTON, January 16, 1930—3 p. m.

18. Your 42, January 13, 3 p. m. Department concurs in your views expressed in paragraph 2. Legation should insist upon observance of procedure laid down in Article 3 of Shanghai Land Regulations.

COTTON

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893.102 S/215

*The Acting Secretary of State to the Chargé in China (Perkins)*

No. 1454

WASHINGTON, January 18, 1930.

SM: The Department has received from the Legation without covering despatch a copy of a despatch from the American Consul General at Shanghai to the American Minister, under date October 18, 1929,<sup>17</sup> dealing with the subjects: "Extra-Settlement Road Problem. Supply of Water and Electricity from the International Settlement".

The Department has given careful consideration to this despatch, particularly to the appeal made by the Consul General to the Legation that assistance be given in the matter of bringing about a resumption of negotiations in regard to the various subjects enumerated, delay serving, in the opinion of the Consul General, to invite the occurrence of a deplorable incident more disastrous than the incident of May 30, 1925.<sup>18</sup>

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<sup>14</sup> See *Foreign Relations*, 1929, vol. II, pp. 675 ff.

<sup>15</sup> See telegram of December 28, 1929, from the Consul at Nanking, *ibid.*, p. 666.

<sup>16</sup> *Ibid.*, p. 675.

<sup>17</sup> Not printed.

<sup>18</sup> See *Foreign Relations*, 1925, vol. I, pp. 647 ff.

The Department desires that Mr. Nelson T. Johnson, American Minister, after he has taken up the duties of his post, thoroughly examine into the various problems under discussion and into the practicability of measures which, in his opinion, might be taken with a view to their solution.

Since the interests of citizens of many nationalities are involved in the controversial issues between the municipal administration of the International Settlement and the Chinese authorities, the Department assumes that the consular and diplomatic representatives of other Powers are likewise desirous that early and equitable settlements shall be arrived at. It is not the desire of the Department that the American Legation take a position of leadership or special responsibility in the adjustment of these questions, but, in view of the important American interests concerned, the Department believes that the American Minister would be fully justified in taking discreet steps designed to hasten action by the various diplomatic, consular and municipal authorities concerned. Such steps as he may take with this object in view he should promptly report to the Department.<sup>19</sup>

I am [etc.]

For the Acting Secretary of State:

FRANCIS WHITE

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893.102 S/234 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, April 16, 1930—6 p. m.

[Received April 16—10:35 a. m.]

Following telegram has been sent to the Legation:

April 16, 6 p. m. The Shanghai Municipal Council presented a resolution to the annual ratepayers' meeting today proposing the increase in the Chinese members of the Council from 3 to 5. The resolution was vigorously opposed by MacDonald, a prominent British ratepayer. Prominent among his reasons for opposing the resolution was the fact that the resolution had been proposed by the Council under pressure. The chairman stated that no influence whatsoever was used toward the Council and that the resolution represented the views of the foreign members of the Council. When the vote was reached the resolution was defeated by a large majority. Repeated to the Department.

CUNNINGHAM

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<sup>19</sup> Not printed.



893.102 S/235 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*SHANGHAI, April 23, 1930—3 p. m.  
[Received 4 p. m.]

The following telegram has been sent to the Legation:

"April 23, 2 p. m. Referring to my April 16, 6 p. m. In accordance with article 3 [15], land regulations, more than 25 [60?] ratepayers signed petitions to [Senior Consul to be] presented by Consul calling ratepayers' meeting to consider following resolution: 'That the Council be authorized and instructed to make further explanation with [to make forthwith] representations to the powers concerned with a view to securing an increase in the number of Chinese members of the Council from three to five.' With the approval of the Consular Body the Senior Consul called, on behalf of the signatories to the petition, a special ratepayers' meeting May 2nd to consider resolution.

2. Article 15 of land regulations provides that the Senior Consul present at the ratepayers' meeting shall preside. I have been urged to be present in order that I may preside. I consider it would be to the best interest of all concerned and be but redeeming an implied obligation to increase the Chinese representations [representatives] to five members, yet, since the present position is due jointly to an address of a British ratepayer, I do not feel particularly anxious to preside. If the Legation or Department have any preferences in the matter, instructions are sought.

3. In the event that there should not be a quorum at the special ratepayers' meeting [or] on account of absence [opposition?] quorum should fail to consider favorably the responsibilities [resolution?], it has been suggested by the British Consul General that article 28 authorizes the Consular Body and local Chinese authorities to reach an agreement as to the amendment to the land regulations. I am of the opinion that this article should be invoked should either of the suggested eventualities occur. Would such action receive the approval of the Minister and the Department? Should the Chinese carry on offensive propaganda before the ratepayers' meeting, I should not be so favorably inclined to take this rather high-handed action.

Repeated to Department."

CUNNINGHAM

893.102S/235 : Telegram

*The Acting Secretary of State to the Consul General at Shanghai (Cunningham)*

WASHINGTON, April 26, 1930—noon.

Your April 23, 3 p. m.

1. Department concurs in your view that it is desirable that you preside at special meeting.

2. Pending the outcome of the meeting, Department reserves its comments on suggestion made by British Consul General. However, it occurs to the Department that the raising of the question of amending the Land Regulations by agreement between the consuls and the local Chinese authorities might precipitate a demand from the Chinese for a general revision of the Land Regulations.

3. Immediately upon the arrival of the Minister, please bring this matter to his attention and inform him that the Department would welcome an expression of his views.

CARR

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893.1028/237 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, April 30, 1930—10 a. m.

[Received April 30—9:10 a. m.]

Your April 26, noon. I have brought matter to attention of Minister and he has asked me to communicate following:

"Cunningham points out that present dilemma of Municipal Council is result of attitude of British ratepayers who outnumber ratepayers of other nationalities concerned. Question of whether or not a quorum will be present at the meeting on May 2nd will be determined by the willingness of British ratepayers to attend. Cunningham feels and I concur with him that under these circumstances question of whether or not land regulations will be discussed with Chinese authorities, following failure of ratepayers favorably to act on Municipal Council's proposals, either through lack of quorum or through opposition at the meeting, should be left to British Consul from whom suggestion has come. Cunningham feels, and I agree with him in this, that we should stand aside in this matter supporting British Consul in any efforts that may seem to him wise for the solution of the dilemma that the Municipal Council and British ratepayers are now in, as our American interests are not jeopardized."

CUNNINGHAM

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893.1028/239 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 8, 1930—10 a. m.

[Received May 8—1:42 a. m.]

312. Shanghai's May 3, noon.<sup>20</sup> Senior Minister has telegraphed to the Senior Consul at Shanghai informing him of the Diplomatic Body's approval of the resolution passed by the ratepayers to increase the

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<sup>20</sup> Not printed.

Chinese members of the Municipal Council from 3 to 5.<sup>21</sup> In this connection Minister Johnson at Nanking has telegraphed the Legation as follows:

"I approve of resolution. Please inform the Department."

For the Minister:  
PERKINS

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893.102S/239 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, May 10, 1930—11 a. m.

162. Your 312, May 8, 10 a. m. Department is gratified that American Minister associated himself with his colleagues in approving resolution of Shanghai rate-payers.

STIMSON

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893.102S/256

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

No. 7036

SHANGHAI, July 18, 1930.  
[Received August 14.]

SIR: I have the honor to refer to the question of the failure of the local Chinese authorities to stamp the deeds to property in Shanghai acquired by the Shanghai Power Company, an American corporation, through the purchase of the Shanghai Electric Light Plant, which formed the subject of the Legation's telegram to the Department No. 42 of January 13, 1930, 3 p. m., and the Department's reply thereto No. 18 of January 16, 1930, 3 p. m.

In accordance with the Department's instructions this Consulate General insisted that the Chinese authorities observe the procedure laid down in the Shanghai Land Regulations, and, after many interviews with the Mayor of the Municipality of Shanghai and the Director of the Land Bureau of the Municipality, the Chinese authorities agreed to stamp the deeds in the customary manner. The deeds in question, stamped by the Land Bureau of the Municipality of Shanghai, have now been received by this Consulate General.

I have [etc.]

EDWIN S. CUNNINGHAM

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<sup>21</sup> Chinese representation was increased from 3 to 5 councilors in 1930.

893.1028/256

*The Acting Secretary of State to the Minister in China (Johnson)*

No. 225

WASHINGTON, August 22, 1930.

SIR: The Department encloses herewith a copy of despatch No. 7036 of July 18, 1930, from the American Consul General at Shanghai to the Department<sup>22</sup> reporting that the Consulate General has been successful in obtaining the stamping by the Chinese authorities of deeds issued to the Shanghai Power Company, an American corporation.

It is requested that the Legation inform the Consul General at Shanghai that the Department is gratified that the Consulate General has been successful in carrying out the Department's telegraphic instruction to the Legation No. 18 of January 16, 1930, and has succeeded in continuing in effect the procedure set forth in Article Three of the Shanghai Land Regulations, which prescribes that deeds issued to American citizens and firms shall be sent to the Chinese authorities for stamping through the American Consulate General.

Very truly yours,

GREEN H. HACKWORTH

893.1028/277

*The Consul General at Shanghai (Jenkins) to the Minister in China (Johnson)*<sup>23</sup>

No. 6736

SHANGHAI, December 23, 1930.

SIR: I have the honor to refer to my confidential despatch No. 6678 of October 27 [29], 1930,<sup>24</sup> concerning the extra-settlement roads and to report the substance of a conversation I had with General Chang Chun, the Mayor of the Municipality of Shanghai, on December 19, 1930. The Mayor began by explaining that he had no authority to enter into negotiations, which could only be handled by the Central Government. However, he recognized the seriousness of the situation and had recently discussed the matter with certain high officials at Nanking.

In the opinion of these officials the extra-settlement roads question was bound up in the larger one of extraterritoriality and it seemed rather inconsistent, in the opinion of the Nanking officials, the Mayor said, to undertake to negotiate about these roads at a time when the Government was considering the entire abolition of extraterritoriality. The Mayor added, however, that the responsible authorities at Nan-

<sup>22</sup> *Supra*.

<sup>23</sup> Copy transmitted to the Department by the Consul General, in his despatch No. 7346, December 23, 1930; received January 16, 1931.

<sup>24</sup> Not printed.

king recognized that foreigners actually had vested interests outside the settlement which could not be ignored, and if certain features regarded as vital to Chinese sovereignty were adjusted, it might be possible eventually to find a settlement.

According to the Mayor, the Chinese would not consider negotiations at all if the foreign interests concerned were not prepared at the very outset to admit the right of China alone to police and levy taxes in the outside roads area. If these two points could be disposed of, the Mayor seemed to think it might be possible to find a basis for negotiation. Unfortunately he did not say what the Chinese would be prepared to do if the foreigners abandoned the rights they now claim to police and levy taxes in the area, and I did not think it wise to ask for details at the time.

General Chang Chun led me to understand that the Chinese authorities were not prepared to negotiate through the Chinese members of the settlement council, but wished the extra-settlement roads matter to be taken up through diplomatic channels. The Mayor expressed the opinion that as Great Britain and the United States have more extensive interests in the question than any other foreign powers, the negotiations might possibly be undertaken by the British and American Ministers to China.

I am informed confidentially, through trustworthy private sources, that unofficial discussions are actually proceeding in which Chinese officials are taking some part, and there is still a possibility of a settlement of the outside roads question although no definite predictions can be made. Judge Feetham<sup>25</sup> is understood to be a party to these discussions, or at least he is being kept informed. It is expected that his report will be ready for submission to the Council within the next month or two, and it seems highly probable that it will touch on the matter of the extra-settlement roads.

Respectfully yours,

DOUGLAS JENKINS

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893.102S/215 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, December 27, 1930—4 p. m.

447. Department's instruction No. 1454 of January 18, 1930. Please inform the Minister that the Department would welcome an expression of his views with regard to the question of extra-settlement roads at Shanghai.

STIMSON

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<sup>25</sup> Mr. Justice Richard Feetham, of the Union of South Africa, engaged to report on future policy for the International Settlement at Shanghai.

893.102S/271 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, January 1, 1931—1 p. m.  
[Received January 1—7:40 a. m.]

## 2. Following from Minister at Nanking:

"December 31, 10 a. m. Following for the Department: Department's 447, December 27, 4 p. m. I am of the opinion that the rights hitherto claimed by the Municipal Council of the International Settlement in regard to the extra-Settlement roads at Shanghai are based on very slender grounds. The roads run through areas unquestionably subject Chinese jurisdiction, and the argument hitherto advanced that because these roads are the property of the Municipal Government of the International Settlement they may not be policed, or protected by the Chinese authorities, nor may native authorities cover said roads for the purpose of policing areas between and adjoining, and, unquestionably subject to Chinese jurisdiction, shows the absurd length to which the interpretation of the extraterritorial privileges or rights of foreigners and their associations has been carried. My British colleague agrees that the problem in regard to the extra-Settlement roads is tax. I have not offered any views with regard to the settlement of this question because both Chinese and foreign authorities have been awaiting the report of Judge Feetham, who has been employed by the Municipal Council to study these problems. It is expected that Judge Feetham's report will soon be issued and that it will furnish a basis for the settlement of these questions. The question of the supply of electric light and power along the extra-Settlement roads has already been settled by the sale of the municipal electric light plant to a private American company."

For the Minister:  
PERKINS

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**INSISTENCE BY CHINA UPON THE RELINQUISHMENT OF EXTRATERRITORIAL RIGHTS BY THE UNITED STATES AND OTHER POWERS<sup>26</sup>**

793.003/239 : Telegram

*The Consul at Nanking (Meyer) to the Secretary of State*

NANKING, January 2, 1930—3 p. m.  
[Received January 2—10:40 a. m.<sup>27</sup>]

2. The following is the substance of a conversation which I had with Dr. Wang Chung-hui, head of the Judicial Yuan, last night at a dinner given by Dr. C. T. Wang:<sup>28</sup>

There are some phases of the question of extraterritoriality concerning which the Chinese Government is prepared to negotiate and there

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<sup>26</sup> Continued from *Foreign Relations*, 1929, vol. II, pp. 543-574.

<sup>27</sup> Telegram in two sections.

<sup>28</sup> Chinese Minister for Foreign Affairs.

are others which it is not. It is not willing to negotiate with the powers on any question of principle. If, after the plan of procedure mentioned in the mandate<sup>29</sup> and which is now under preparation by the Executive, Legislative and Judicial Yuans has been completed, the powers wish to make suggestions as to details, they may become the subject of negotiations. The Chinese Government will be firm where principles are concerned but reasonable as to details. This is a fight to the finish and China can only save itself by such a move as it made in the issuing of the mandate of December 28. The question of extra-territoriality is regarded from two different points of view by China and the powers. China regards it as a political question; the powers regard it as a judicial matter. The problem now before the powers and China is to reconcile the two points of view to the satisfaction of all concerned.

Wang Chung-hui continued that he thought it would please the Chinese people very much if Mr. Johnson<sup>30</sup> would arrange to come to Nanking and present his letter of credence before proceeding to Peiping. He referred to the case of the British Minister to China who visited Hankow, the then capital of the Nationalist Government, before going to Peiping.<sup>31</sup> He stated that even though the British Minister did not present his letter of credence at Hankow, his visit was greatly appreciated. He expressed the hope that Mr. Johnson would find it convenient to report direct to Nanking. The above may be of interest to Mr. Johnson since newspapers in China report that it is his plan to proceed first to Peiping before coming to Nanking.

MEYER

711.933/225

*Memorandum by the Secretary of State of a Conversation With the Chinese Minister (C. C. Wu)*

[WASHINGTON,] January 2, 1930.

The Minister brought up the question of extraterritoriality and expressed his dissatisfaction with the proposals being made to him by us. He said that the proposal to administer Chinese law through the foreign courts had been made three years ago by Great Britain and was thought unsatisfactory by the then Peking Government. He then produced the following proposal:

"Beginning on January 1, 1930, Americans in China, other than those in Shanghai, Canton, Tientsin, Hankow, and Harbin, are amenable to Chinese laws and regulations and to the jurisdiction of Chinese courts.

<sup>29</sup> For text of mandate dated December 28, 1929, see telegram of December 28, 1929, from the Consul at Nanking, *Foreign Relations*, 1929, vol. II, p. 666.

<sup>30</sup> Nelson T. Johnson, new Minister to China.

<sup>31</sup> Sir Miles Lampson, 1927.

Regarding jurisdiction over Americans in the five cities above enumerated, arrangements will be made after a definite short period from date of this agreement with a view to the final abolition of extraterritoriality."

He told me he had talked it over with Mr. Johnson <sup>32</sup> and Mr. Hornbeck.<sup>33</sup> I told him that he must realize that we had also been placed in an unpleasant situation, not only by the two factors I had mentioned above, but by the situation with Russia;<sup>34</sup> and that he must realize now that he would have made it much easier for us, in respect to all of these matters if, instead of waiting to restore the *status quo* under the war-like conditions of Russia, he had done it when I suggested it last summer. He told me he appreciated that now; that they had come out pretty badly from their Russian trouble.

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711.933/223 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, January 2, 1930—3 p. m.  
[Received January 3—10:10 a. m.]

Mayor of Canton has intimated that he expects consular officers to call first and formally upon him in connection with his assumption of administration of local foreign affairs.<sup>35</sup> This is contrary to established practice and as there appears to be no occasion for any exchange of formal calls in this instance, consuls are inclined to evade the question by visiting the Mayor separately and informally when they have business with him.

I have the impression that the Mayor is acting under instructions from the Ministry of Foreign Affairs and may insist upon formal first calls with the intention of lowering consular dignity and creating impression amongst the Chinese that the powers have acquiesced in the abolition of extraterritoriality and other changes Nanking is now trying to bring about.

My colleagues and I do not wish to offend the Mayor but we feel that we should endeavor to guard our dignity and prestige as far as possible, and, as it seems probable this same question will arise in other ports, it is hoped the Diplomatic Body or our respective Ministers may offer suggestions as to some general form of procedure under the circumstances. Department and Legation informed.

JENKINS

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<sup>32</sup> Nelson T. Johnson, then Assistant Secretary of State.

<sup>33</sup> Stanley K. Hornbeck, Chief of the Division of Far Eastern Affairs.

<sup>34</sup> See *Foreign Relations*, 1929, vol. II, pp. 186 ff.

<sup>35</sup> For correspondence concerning abolition by China of commissionerships of foreign affairs, see *ibid.*, pp. 675 ff.



793.003/240 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 2, 1930—5 p. m.  
[Received January 3—10:55 a. m.]

6. Legation's 1204, December 30, 5 p. m.,<sup>38</sup> paragraph 2. British Minister left today for Nanking to initiate negotiations having as their aim the gradual relinquishment of British extraterritorial rights.

PERKINS

793.003/241 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 2, 1930—6 p. m.  
[Received January 3—11:10 a. m.<sup>37</sup>]

7. Legation's 1200, December 29, 2 p. m.,<sup>38</sup> paragraph 1.

1. French Minister has sent me text of protest which his Government is making today with respect to the Chinese Government's mandate of December 28 regarding extraterritoriality.<sup>39</sup> Note states that the French rights derive from treaties which are still in force and the revision of which can be made only by mutual consent in accordance with the treaty of 1858.<sup>40</sup> Any attempt to annul these rights by unilateral action contravenes both international law and the stipulations of the treaties. French Government does not doubt that the Chinese Government will abstain from any act infringing the guaranties which protect French persons and property but reserves its liberty of action with regard to the defense of its treaty rights.

2. Danish Minister has also sent me text of a note which he is transmitting today under instructions of his Government. Note concludes with the statement that the Danish Government holds that the mandate in question is applicable to Danish subjects in China only after China has come to an agreement for the abolition of extraterritoriality with all the powers signatory of the Washington treaties.<sup>41</sup>

3. Italian Minister has informed me that he is addressing a note similar to that sent by the Danish Minister.

4. British Minister has suggested to his Government that it make a reservation in some form with regard to the mandate but he has as yet received no information in this regard.

<sup>38</sup> *Foreign Relations*, 1929, vol. II, p. 669.

<sup>37</sup> Telegram in two sections.

<sup>39</sup> *Foreign Relations*, 1929, vol. II, p. 667.

<sup>40</sup> See telegram of December 28, 1929, from the Consul at Nanking, *ibid.*, p. 666; also memorandum from the French Embassy, December 30, 1929, *ibid.*, p. 670.

<sup>41</sup> Sino-French treaty signed at Tientsin, June 27, 1858, *British and Foreign State Papers*, vol. LI, p. 637.

<sup>42</sup> Signed at Washington Conference, February 6, 1922; *Foreign Relations*, 1922, vol. I, pp. 276 ff.

5. Since the texts of the above notes are of some length I shall not telegraph them unless the Department so directs.

PERKINS

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793.003/242 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 3, 1930—4 p. m.

[Received January 3—2:25 p. m.]

10. [For the first part of this telegram, see *Foreign Relations*, 1929, volume II, page 674, footnote 57.]

2. At meeting yesterday of Diplomatic Body when mandate of December 28th was informally discussed, I took occasion to say that my instructions were to the effect that the American Government maintained the stand taken in its note of November 1st last<sup>42</sup> that the Department was at present engaged in discussions with the Chinese Minister with a view to the ultimate conclusion of an agreement and proposed to continue the discussion of the subject. I also said that I had received no instructions as to the intentions of my Government with respect to the making of a protest or reservation concerning the mandate in question.

PERKINS

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793.003/248

*The French Ambassador (Clandel) to the Secretary of State*

[Translation]

WASHINGTON, January 3, 1930.

MR. SECRETARY OF STATE: In accordance with instructions which I have received from my Government, I have the honor to advise Your Excellency that the Minister of Foreign Affairs of the Republic delivered on January 2, to the Minister of China at Paris, a note of protest against the declaration of the Chinese Government relative to the abolition of extraterritoriality. This note was delivered on the same day to the Chinese Government by the Minister of France at Peking.

The document in question does not constitute a change in the policy of the French Government towards China, such as it has been declared several times and such as I have myself had occasion to state it to your Excellency.

My Government is ever desirous of studying sympathetically and on the basis of the mutual consent of the two parties the question of

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<sup>42</sup> See telegram No. 958, November 4, 1929, from the Minister in China, *Foreign Relations*, 1929, vol. II, p. 616.

the gradual abolition of the extraterritorial provisions which might be recognized as useless or inadequate.

The Government of the Republic hopes that the declaration of the Chinese Government will probably not be followed by executory measures. Until now, it has not received any notification of the denunciation of the Franco-Chinese treaties. It considers, nevertheless, that the initiative of the Government of Nanking is dangerous in the sense that the object thereof is to substitute for the provisions of perfectly valid treaties the *fait accompli* of domestic legislation. It has felt, therefore, that the Chinese declaration could not be accepted without protest, even in case such declaration should not carry any immediate application.

I believe that I should acquaint Your Excellency with the point of view of my Government in a question which equally engages the Government of the United States. Furthermore, the conversations which I have had either with Your Excellency or with the chief of the appropriate office of the Department of State permit me to think that the point of view of the French Government is, in its main lines, in agreement with the point of view of the Government of the United States.

Be pleased [etc.]

CLAUDEL

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793.003/242: Telegram

*The Acting Secretary of State to the Chargé in China (Perkins)*

WASHINGTON, January 4, 1930—8 p. m.

5. Your 10, January 3, 4 p. m.

1. The statements made by you to your colleagues as reported in your paragraph 2 are approved.

For your further information and guidance, the Department quotes below the text, with one minor alteration of phraseology, of a statement expressing views of the American Government which was read to the Chinese Minister by the Chief of the Far Eastern Division on December 28 before the Department had been informed of the Chinese Government's declaration of that date.

[Here follows text of undated statement printed in *Foreign Relations*, 1929, volume II, page 665.]

The Department has examined with care the declaration of December 28 and the statement of December 30.<sup>43</sup> This examination leads to the conclusion that the Chinese Government, having declared that beginning January 1, 1930, foreigners in China shall obey Chinese law, has at the same time expressed its willingness to negotiate with regard to measures for the abolition of extraterritorial jurisdiction. The Department does not discover in this action any repudiation of

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<sup>43</sup> See telegrams of December 28 and 30, 1929, from the Consul at Nanking, *Foreign Relations*, 1929, vol. II, pp. 666 and 668.

existing treaty provisions. The Department perceives no objection to the signaling of the date January 1, 1930, as a date for the beginning of the process of gradual abolition of extraterritorial rights, it being understood that the process will be by steps which shall be agreed upon. The Department considers it advisable, instead of objecting to or criticising the decree and statement, to concentrate emphasis on the points that the Chinese have not decreed extraterritoriality abolished and have affirmed their willingness to work the problem out by processes of negotiation and agreement. It will continue to be this Government's position that we will gladly cooperate with the Chinese in an effort to arrive at and carry out a solution by agreement. The discussions with the Chinese Minister here will be continued.

COTTON

711.933/250

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*The Department of State to the French Embassy \*\**

The Chinese Government did not at any time inform the American Government of its intention to make a declaration on the subject of extraterritoriality. However, it having been reported to the Secretary of State that the Chinese Ministers in London and in Paris had informed the British and the French Governments respectively that the Chinese Government intended to make on January 1st some move in connection with the subject of the abolition of extraterritoriality, a statement expressing certain views of the American Government was read to the Chinese Minister in Washington on December 28, 1929. The statement was as follows:

[Here follows text of undated statement printed in *Foreign Relations*, 1929, volume II, page 665.]

The American Government has been informed through its officers in China that on December 28 the Chinese Government issued a Mandate and on December 30 the Chinese Minister for Foreign Affairs published a statement <sup>45</sup> on the subject of jurisdiction over foreigners in China. The texts of this declaration and statement have been carefully examined and the examination leads to the conclusion that the Chinese Government has declared that hereafter foreigners in China shall obey Chinese law and that the Chinese Government is willing to negotiate with the foreign Powers concerned on the subject of steps to be taken beginning January 1, 1930, toward effecting the abolition of the extraterritorial jurisdiction now exercised by foreign

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<sup>\*\*</sup> Handed to the Second Secretary of the French Embassy on January 6, 1930. A similar memorandum dated January 4 was sent to the British Embassy on January 9.

<sup>45</sup> See telegrams of December 28 and 30, 1929, from the Consul at Nanking, *Foreign Relations*, 1929, vol. II, pp. 666 and 668.

Powers. The American Government does not discover in this action any evidence of intention on the part of the Chinese Government forthwith and by unilateral action to repudiate existing treaty provisions. The American Government perceives no objection to the signalizing of the date of January 1, 1930, as the date from which the taking of steps looking toward the gradual abolition of extra-territorial rights shall begin. The position of the American Government with regard to the question of negotiations looking toward the conclusion of an agreement on this subject was set forth in the concluding paragraphs of the American Government's notes, through the American Minister to China, of August 10 and November 1, 1929.<sup>46</sup>

WASHINGTON, January 4, 1930.

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711.933/223 : Telegram

*The Acting Secretary of State to the Chargé in China (Perkins)*

WASHINGTON, January 6, 1930—6 p. m.

6. Canton's January 2, 3 p. m. Department perceives no need for consular officers to call first and formally upon the Mayor and leaves the whole question of instructions to the discretion of the Legation.

COTTON

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793.003/249 : Telegram

*The Chargé in China (Perkins) to the Acting Secretary of State*

PEIPING, January 8, 1930—5 p. m.

[Received 5:40 p. m.]

26. Legation's No. 7, January 2, 6 p. m. Japanese Chargé d'Affaires said to me today that it was not the intention of his Government to make a protest with regard to the Chinese Government's mandate of December 28. In view of the Sino-Japanese exchange of notes of April 26-27 last <sup>47</sup> which he referred to as a *modus vivendi*, the Japanese Government considers that China has agreed, pending treaty revision between the two countries, to make no attempt to exercise jurisdiction over Japanese nationals and that therefore it is unnecessary for Japan to take any action in the present circumstances. See Legation's mail despatch No. 279 [2079], May 4, 1929.<sup>48</sup>

PERKINS

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<sup>46</sup> See telegram No. 254, August 1, 1929, to the Minister in China, and telegram No. 958, November 4, 1929, from the Minister, *Foreign Relations*, 1929, vol. II, pp. 596 and 616.

<sup>47</sup> For texts of notes signed at Nanking, see *The China Yearbook*, 1929-30, pp. 837-839.

<sup>48</sup> Not printed.

711 933/244 : Telegram

*The Consul General at Canton (Jenkins) to the Acting Secretary of State*

CANTON, January 13, 1930—noon.

[Received January 13—6 a. m.]

Referring to the Legation's telegram January 8, 10 a. m.,<sup>49</sup> I visited informally Mayor of Canton on January 11 when I took occasion to assure him of cooperation of American Consulate General and discussed several pending matters. Mayor has arranged to return visit today. Other Consuls are pursuing similar course, and relations now seem well established. Department and Legation informed.

JENKINS

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711.933/248

*Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Chinese Minister (C. C. Wu)*

[WASHINGTON,] January 13, 1930.

The Minister called by appointment.

After some conversation with regard to the situation in China, Mr. Hornbeck referred to the memorandum of proposal which Dr. Wu had left with the Secretary on January 2 (see Secretary's memorandum of conversation of date January 2).

Mr. Hornbeck stated that it would hardly be possible to make a commitment that Americans in China be subject to Chinese laws and the jurisdiction of Chinese courts beginning on January 1, 1930; and he pointed to the concomitant statement in the Minister's memorandum that in regard to jurisdiction over Americans in the five cities named "arrangements will be made after a definite short period from the date of this agreement".

After some discussion of those points, Mr. Hornbeck read in outline to Dr. Wu from a draft of proposals upon which the Far Eastern Division of the Department has been working.<sup>50</sup> He told Dr. Wu that he was in no way committing himself or the Department but that he would like to get Dr. Wu's reactions on some of the points under consideration.

Dr. Wu said that he would think over the points which had been mentioned.

S[TANLEY] K. H[ORNBECK]

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<sup>49</sup> Copy apparently not received in the Department; see Department's telegram No. 6, January 6, to the Chargé in China, p. 360.

<sup>50</sup> For text of draft as submitted on January 23, 1930, see p. 363.

711.933/247 : Telegram

*The Consul General at Canton (Jenkins) to the Acting Secretary of State*

CANTON, January 15, 1930—3 p. m.  
[Received January 15—12:30 p. m.]

The impression seems to be growing in Chinese circles here that the United States is the only power opposing the abolition of extraterritoriality, whereas Great Britain is inclined to meet Chinese aspirations, having gone so far as to send the British Minister to Nanking to negotiate.

I understand the Department is now negotiating with Dr. Wu at Washington regarding extraterritoriality, but nothing is appearing in the newspapers here. If it is possible to give out an announcement as to the progress of such negotiations I think this Consulate General could make good use of a brief statement to be passed on privately to friendly local officials and published in the Cantonese newspapers. Department and Legation informed.

JENKINS

711.933/247 : Telegram

*The Acting Secretary of State to the Chargé in China (Perkins)*

WASHINGTON, January 18, 1930—1 p. m.

20. Reference Canton's January 15, 3 p. m. The American Government has at no time opposed in principle the abolition of extraterritoriality. It does, however, contend that abolition should not be abrupt or in disregard of treaty provisions. Refer to Secretary of State's public statement of January 27, 1927,<sup>51</sup> and last paragraph of the American Government's notes to the Chinese Government, dated August 10, 1929, and November 1, 1929.<sup>52</sup> Believing that effective steps should be taken toward effecting the abolition of the extraterritorial rights which it exercises and which are enjoyed by American nationals in China under the provisions of treaties between the United States and China, the American Government is of the opinion, which it has expressed in the above references, made public, as well as on a number of other occasions, that the abolition of those rights should be accomplished by an agreed upon and gradual process. Officers of the American Government have for some time been actively engaged in conversations with officers of the Chinese Government in an effort to

<sup>51</sup> See telegram No. 28, January 25, 1927, to the Chargé in China, *Foreign Relations*, 1927, vol. II, p. 350.

<sup>52</sup> See telegram No. 254, August 1, 1929, to the Minister in China, and telegram No. 958, November 4, 1929, from the Minister, *ibid.*, 1929, vol. II, pp. 596 and 616.

formulate a plan which may be submitted to both Governments whereby the abolition of these extraterritorial rights may be effected by a process agreed upon and in a manner which will prove satisfactory to the Governments and the people of the two countries. Negotiations along this line are now proceeding satisfactorily at Washington and it is needless to state that the American Government would view with regret and would greatly deprecate any action in disregard of the principles and policy upon which these negotiations are based.

Use of the above statement as suggested in Jenkins' telegram is authorized. The statement, if used, should be informally communicated to Chinese officials leaving it to them if they so desire to give it to the Chinese press. Inform Jenkins.

COTTON

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793.003/256 : Telegram

*The Chargé in China (Perkins) to the Acting Secretary of State*

PEIPING, January 20, 1930—noon.

[Received January 20—9 a. m.]

62. Legation's 1201, Dec. 30, 9 a. m.,<sup>53</sup> and 6, January 2, 5 p. m. Norwegian Chargé d'Affaires left yesterday for Nanking to engage in extraterritoriality negotiations. Norwegian Minister for Foreign Affairs informed British Minister in Oslo that the Norwegian Government was prepared to follow the lead of the British Government in matters relating to the relinquishment of extraterritorial rights.

PERKINS

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711.933/264

*The Department of State to the Chinese Legation*<sup>54</sup>

AN OUTLINE OF POSSIBLE PROVISIONS, FOR PURPOSES OF DISCUSSION WITHOUT PRESENT COMMITMENT, JANUARY 23, 1930

## ARTICLE I

Other than as modified by the provisions of this Agreement and the Annex thereto, after January 1, 1930, American citizens in China

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<sup>53</sup> Not printed.

<sup>54</sup> Memorandum of January 23, 1930, by the Chief of the Division of Far Eastern Affairs (Hornbeck) attached to file copy states: "The original of this material for study was handed to the Chinese Minister by Mr. Hornbeck on January 23, 1930, with the express statement that it was not to be taken as a definite offer on the part of the American Government but was to be regarded as material for study. Mr. Hornbeck stated that he thought it should not be expected that any definite offer will be made until after the return of the Secretary of State from the London Conference." The Secretary of State was absent from Washington from January 7 to April 29, 1930, for the London Naval Conference (see vol. I, pp. 1 ff.). A copy of this document was handed to the Counselor of the British Embassy on January 25.



shall be subject to the jurisdiction of the modern Courts of Justice (Shen P'an T'ing) through which judicial orders may issue in accordance with law and established procedure.

American citizens shall not be subject to the jurisdiction of magistrate's courts or military courts and shall be subject to the jurisdiction of police courts only in the manner set forth in the Annex to this Agreement.

While the several modern courts now established in China may take jurisdiction for the purpose of the issuing of judicial process looking to the establishment of a "prima facie" case in any case involving an American citizen, such cases shall be brought to trial only before the modern courts established at Harbin, Mukden, Tientsin, Shanghai, Hankow, Chungking, Canton and Yunnanfu, at each of which places there shall be created a special bench for the trial of foreigners.

The geographical divisions for which these several designated courts shall function as courts of first instance for the trial of foreigners shall be determined upon grounds of practicability of access, following consultation between the American and the Chinese Governments.

#### ARTICLE II

A Special Court of Appeals for trying appeal cases involving foreigners shall be established at Nanking. Appeals shall lie from this Appeal Court to the Supreme Court of China, which shall establish a special bench for the hearing of appeal cases involving foreigners.

#### ARTICLE III

The Chinese Government agrees to take immediately into its service for such period as it may consider necessary, not being less than five years from the date of the signing of this Agreement, a number of legal counselors or jurisconsults who shall be selected and engaged as officials of China by the Chinese Government from a panel of legal experts nominated by the Permanent Court of Arbitration at The Hague. In addition to preparing the panel of nominees, the Permanent Court of Arbitration shall recommend the amount and the conditions of payment of the salaries of the legal counselors to be thus selected by the Chinese Government. The panel shall be selected by the Court from lists prepared by the law associations of the several countries concerned, the Court's nominations and the final selection by the Chinese Government to be made with particular regard to the merit and standing as jurists of the several nominees. China and each of the foreign countries interested shall have equal representation on this body of legal counselors as finally appointed by the Chinese Government. These legal counselors shall serve under the Minister of Justice and

shall be stationed at Shanghai, from which place they may be deputed by the Ministry of Justice, as occasion requires, for service, during the hearing of cases involving foreigners enjoying extraterritorial rights, in those modern courts especially designated for the trial of such cases. It shall be the duty of these legal counselors to observe, without interfering in the performance by the judges of the courts of their duties, the workings of those modern courts in which cases involving foreigners enjoying extraterritorial rights are heard or brought to trial, and to forward to the Minister of Justice such reports as the legal counselors may consider necessary, furnishing simultaneously to the Legation concerned copies of such reports. In addition, these legal counselors shall receive directly all complaints to which the administration of justice in civil, commercial or criminal matters, the execution of sentences, or the manner of application of the law, may give rise, and at the request of any of the interested parties shall bring such complaints to the notice of the Minister of Justice with a view to ensuring the observance of the provisions of Chinese law. However, in those cases in which the law invoked is in its nature markedly divergent from the general concepts of western jurisprudence, the legal counselors may suggest to the Ministry of Justice some modification in the application of the law in question, in order that conflicts in national judicial usages may be gradually reconciled and that foreign as well as Chinese litigants shall, for a transition period, have recourse to legal procedure not markedly unfamiliar to them.

Similarly, these legal counselors will be authorized to receive such complaints as may be caused by domiciliary visits, search or arrests; moreover, immediately following any domiciliary visits, search or arrests affecting foreigners enjoying extraterritorial rights in any judicial district, the local representative of the Minister of Justice shall notify the nearest consul of the nationality of the foreigner concerned, as well as the legal counselor who shall be most accessible in point of time. The local representative of the Minister of Justice shall, in such cases, be authorized to correspond directly with the Consul concerned and with the legal counselor, through the medium of which officials all matters affecting foreigners enjoying extraterritorial rights shall be referred to the higher authorities of the Governments concerned.

#### ARTICLE III-A

For a period of five years following the signing of this Agreement, the United States, through its diplomatic and consular officers in China, whenever in its discretion it deems it proper so to do in the interest of justice, by means of a written requisition addressed to the judge or judges of the court in which such case is pending, may evoke any case pending in any Chinese court, except the Supreme Court, in

which an American citizen or a person, corporation, company or association entitled to the protection of the United States is defendant or accused.

Such case shall then be transferred to said consular official or to the United States Court for China for adjudication, and the jurisdiction of the Chinese Court over such case shall thereupon cease. Any case so evoked shall be disposed of by said consular official or by the United States Court for China in accordance with the laws of the United States properly applicable, except that as to all matters coming within the scope of Codes or Laws of the Republic of China regularly promulgated or in force, the texts of which have been communicated to the American Legation in Peiping, the rights and liabilities of the parties shall be determined by Chinese law.

For the purpose of trying such cases and of executing any judgments which may be rendered therein, the jurisdictions of the American consular officials in China and of the United States Court for China are continued.

Should the American Government, within a reasonable time after the promulgation of the various Codes, Laws and Ordinances, perceive any objection to such Codes, Laws and Ordinances, the Chinese Government will endeavor to meet such objections.

#### ARTICLE IV

In regard to all judicial processes affecting foreigners, the Chinese Government is most desirous that the transition from foreign to Chinese jurisdiction shall be free from vexatious misunderstandings and, with a view to obviating such misunderstandings, will make immediately effective the specific terms of agreement set forth in the Annex to this Agreement.

#### ARTICLE V

The Chinese Government declares that the Chinese Courts will ensure to American citizens in China, both as regards person and property, protection in accordance with international law and the principles and methods generally adopted in other countries.

#### ARTICLE VI

This Agreement shall not be interpreted as modifying such arrangements as may be in force in international settlements and foreign concessions in China which provide for the operation of courts, for the issuance of deeds to property or for taxation.

## ARTICLE VII

In all cases in which title to real property in China is established by evidence of title customary in the locality concerned, such titles shall be permitted to rest undisturbed, and no title to property in China held by an American citizen shall be qualified or conditioned in consequence of any stipulations of this Agreement.

## ARTICLE VIII

Private houses, vessels, business premises and other properties owned or leased by American citizens shall not be entered forcibly or be searched unless warrants in each case have been issued by the competent judicial authority with guarantees against abuse.

## ARTICLE IX

It shall be open to American citizens and organizations freely to enter into agreements for the settlement of civil or commercial controversies by arbitration and, when called upon to do so, the Courts of Justice shall take judicial cognizance of such agreements and shall enforce the awards made in pursuance thereof unless, in the opinion of the competent court, the award is contrary to public order or good morals.

## ARTICLE X

American citizens and organizations operating commercial vessels in Chinese coastal waters and on Chinese waterways in conformity with the treaties in force shall not be subject to discriminatory treatment nor shall the vessels or other property of such companies be subject to restraint or requisition without legal warrant.

## ARTICLE XI

In all matters for which provision is made in this Agreement (Treaty) citizens of the United States shall enjoy in China all of the rights enjoyed by the nationals of the country most favored in such respects and they shall not suffer treatment in any manner discriminatory as compared with citizens of the Republic of China or of any other country.

## ARTICLE XII

Except as modified in this Agreement existing treaties between the United States and China shall remain in force.

## ANNEX

In response to requests that have been formulated, and on the occasion of the conclusion of an agreement for the relinquishment by the American Government of extraterritorial jurisdiction over American citizens in China, the Chinese Government, animated by a desire to dissipate any concern entertained by American citizens in China because of their lack of familiarity with the new codes of law about to be applied to them hereafter, and desirous of placing American citizens more particularly in possession of the dispositions taken in their behalf by legislation and otherwise by the Chinese Government, addresses this present declaration to the American Government for notification to American nationals resident in China, such decision to serve as an annex to the Agreement about to be concluded in reference to the abolition of extraterritorial jurisdiction over American citizens in China:

## 1

With respect to judicial matters, all judgments given by former Courts—even if they have not been executed—are considered as definitely settled and in no case may be reviewed; also all definitive judgments rendered by the former Courts must be executed. In short, all suits terminated under the old judicial system are considered as definitely settled and may not again be opened.

All legal actions to which an American citizen or organization is a party as plaintiff or defendant pending at the time when this Agreement is signed by the representatives of the two Governments shall continue in the same tribunals until final adjudication and execution of judgment. All cases pending before the American consular officials in China and before the United States Court for China at the time of the ratification of this Agreement shall take their usual course before such officials until such cases have been finally disposed of, and the jurisdiction of the American consular officials and of the United States Court for China shall remain in full force for this purpose. In connection with such cases pending before the American consular officials and the United States Court for China, the Chinese authorities shall, upon request by the American authorities concerned, lend their assistance in all matters pertaining to the cases designated.

All cases in which action shall be instituted subsequently to the date of the exchange of ratifications of this Agreement, shall be entered and decided in the Chinese Courts, whether the cause of action arose before or after the date of said exchange of ratifications.

## 2

Police courts shall have jurisdiction over American citizens only in matters of minor importance which are not punishable by detention or imprisonment or by fines in amount of more than five dollars. In the event that a police court shall properly have found an American citizen guilty of an offense within the court's jurisdiction, such American citizen shall have the option of paying a fine or upon written application, of submitting to detention at the rate of one day's detention for each dollar of the fine imposed, such detention to be in accordance with the provisions of section 12 hereinunder.

## 3

A national of the United States arrested in *flagrante delicto* for an act which is termed a misdemeanor or a crime may not be kept under arrest or detention for more than twenty-four hours without being brought before the competent judicial authority for hearing.

Except in cases of *flagrante delicto*, no national of the United States shall be arrested or imprisoned without an order emanating from the competent judicial authority.

## 4

The Chinese Government has in contemplation a set of generous regulations governing release on bail, which release shall be granted in every instance except in cases of crimes punishable by death or imprisonment for life. In all cases, the sum demanded for bail shall be reasonably proportionate to the degree of this misdemeanor. In cases of minor offenses, release on bail shall always be ordered, unless this entails danger to public safety or unless such provisional release is calculated to impede the investigation of the case. When a person appeals from a sentence, the same facilities for release on bail as mentioned above shall be granted him until the sentence of the Appellate Court shall have been handed down.

## 5

American citizens shall not be arrested or subjected to limitation of their individual liberty for the purpose of provisionally safeguarding civil debts other than in those cases where the execution to be carried out on the debtor's goods actually in China would appear to be subject to serious danger from an act of the debtor, or where it is not possible to safeguard the execution by any other means.

## 6

The Chinese Government agrees to take immediate steps to make available to American citizens a form of legal protection equivalent to that provided by a writ of *habeas corpus* under American law.

## 7

In matters of personal status, that is, all matters relating to marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliation, adoption, capacity, majority, guardianship, trusteeship and interdiction; in matters relating to succession to personalty, whether by will or on intestacy, and to the distribution and settlement of estates; and in matters of family law in general, it is agreed between the two Governments that as regards American citizens in China, the American courts and/or American consular officers in China will alone have jurisdiction.

The present stipulation does not affect the special attributions of consuls in matters of status in accordance with international law or special agreements which may be concluded, nor the right of Chinese courts to request and receive evidence in regard to matters attributed by the provisions of this agreement to the competence of the national tribunals or authorities of the parties concerned.

By way of exception to the first paragraph of this Article, the Chinese modern courts shall also have jurisdiction in the matters referred to therein, if all the parties to the case submit in writing to the jurisdiction of the said courts.

## 8

An American citizen appearing before a Chinese court as party to a civil or criminal action shall have full freedom to employ an interpreter and/or legal counsel of his own or other nationality to represent him before the Court, and such counsel and interpreter shall have the same rights and privileges as Chinese lawyers and interpreters appearing before the Court. Hearings shall be in the Chinese language, but the Court shall take measures to ensure that such English and Chinese translations are made as may be necessary for an understanding of the proceedings by all parties to the case.

## 9

Since, according to Chinese law, Court proceedings are, in general, and in all but exceptional cases, open to the public, the parties interested in a suit or in the welfare of the litigants shall have the right to

be present as spectators, in all but exceptional cases, without, however, having the right to take active part in the trial in any way whatsoever.

## 10

In all suits, criminal as well as civil, the judgments of the court shall be drawn up in writing and shall set forth the considerations of law and of fact on which they are based. Parties to a suit or persons authorized by them, shall, upon payment of the usual official fees for such copy, have the right to obtain certified copies of the testimony and judgment in any case.

## 11

All questions relating to security for costs, to the execution of sentences, to the service of judicial and extra-judicial decrees, to *commissions rogatoires*, to orders for the payments of costs and expenses, to free legal assistance, and to imprisonment for debt, are left to be regulated by special conventions between China and the United States of America.

## 12

The Chinese Government is continuing its measures to ameliorate the condition of its prisons so that they may be in conformity with modern requirements.

Meanwhile, nationals of the United States condemned to detention or imprisonment shall be detained or imprisoned only in modern detention houses or prisons where the health of prisoners is safeguarded by the provision of adequate detention quarters, food, heat, light and sanitation in accordance with modern standards of prison accommodation. American prisoners under detention at places where there are no modern detention houses or prisons, shall not be detained in old style prisons or detention houses, but shall be accorded special treatment as to place of confinement, food, heat, light and sanitation as provided in modern prisons. The Chinese authorities shall take steps promptly to effect the transfer of such prisoners to one of the several existing modern prisons designated, after consultation between the American and Chinese Governments, as places suitable for the incarceration of American prisoners.

When for any reason whatsoever an American citizen is detained or imprisoned by the Chinese authorities, it shall be the duty of such authorities immediately to inform the nearest American Consul of the detention or imprisonment of the American citizen, and the Chinese authorities shall permit free communication between the Consul and the prisoner.



Nationals of the United States who have been arrested and imprisoned shall have the right, in conformity with prison regulations, to communicate with the nearest American Consul, and the Consuls or their representatives shall be permitted to visit American prisoners, upon conforming to prison regulations. The Chinese authorities will immediately transmit such communications from American prisoners to their Consuls or to other persons whom the prisoners may elect to address.

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711.933/253: Telegram

*The Minister in China (Johnson) to the Acting Secretary of State*

NANKING, February 3, 1930—7 p. m.  
[Received February 3—10:25 a. m.<sup>56</sup>]

Department's telegram number 33, January 25, 6 p. m.<sup>57</sup>

1. I saw the British Minister today and informed him of contents of this telegram, stating that it was [apparent omission] that proposal referred simply to transfer of civil cases.

2. British Minister will this afternoon see C. T. Wang and lay before him first definite British proposal which he showed to me, and which is practically the draft submitted to us in November,<sup>57</sup> proposing transfer of jurisdiction by category of cases beginning with civil cases and the employment by the Chinese of foreign judges, British retaining jurisdiction over civil cases between British subjects. Other details same as November draft.

3. British Minister pointed out that while our proposal went along the lines of Chinese proposal for legal counselors, his instructions required him to insist upon employment of foreign cojudges, thus evidencing to Chinese lack of agreement with us on this matter.

4. British Minister has not received from British Legation complete copy of our draft which you communicated to British Embassy at Washington. Will you therefore please telegraph draft to Adams<sup>58</sup> in order that he may supply British Minister here with copy.

JOHNSON

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<sup>56</sup> Telegram in two sections.

<sup>57</sup> Not printed.

<sup>58</sup> Walter A. Adams, Consul at Nanking.

711.933/253 : Telegram

*The Acting Secretary of State to the Consul General at Shanghai  
(Cunningham)*

WASHINGTON, February 4, 1930—6 p. m.

Following for urgent decoding and to be handed to the American Minister:

Your February 3, 7 p. m.

1. Paragraph 1. Tentative proposal handed to Chinese Minister included criminal as well as civil cases involving American citizens.

2. Paragraph 3. Department believes that evidence to Chinese of absence of agreement between the foreign Powers concerned will not at this stage prejudice the negotiations but may even encourage the Chinese to make reasonable proposals of their own. The Department desires, however, freely to exchange with other interested Governments views and information. Chinese Minister has made no comment since this was given him.

3. Paragraph 4. The Department supplied British Embassy with complete text of the present tentative proposal and Embassy has telegraphed same to the British Foreign Office. Department's 33, January 25, 6 p. m.,<sup>59</sup> gives you text of Article 3. Résumé of other provisions follows:

4. [Here follows résumé of proposal; for text of outline of possible provisions of January 23, 1930, see page 363.]

5. It must be clearly understood that this material was handed to Chinese Minister for consideration and not as an offer.

6. Full text mailed February 3.

COTTON

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793.003/290½

*The Chinese Minister (C. C. Wu) to the Chief of the Division of Far  
Eastern Affairs (Hornbeck)*<sup>60</sup>

#### MEMORANDUM

Personal observations of Mr. Wu on the Draft Agreement and Annex proposed on January 23, 1930. These observations are not yet complete owing to present lack of available material.

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<sup>59</sup> Not printed.

<sup>60</sup> Handed to the Chief of the Division of Far Eastern Affairs by the Chinese Minister on February 6, 1930, together with a covering note dated February 6, 1930 (not printed).

## ARTICLE I

The exemption of American nationals from the jurisdiction of Magistrates' Courts and Military Courts can probably be agreed to.

The restrictions placed on the jurisdiction of the Police Courts, however, seem too wide. It is hoped that a formula may be worked out and submitted shortly.

The limitation of trial jurisdiction to the eight District Courts (by District Courts are meant the modern courts of first instance) seems not only unnecessary but might well be a hardship and an inconvenience to American nationals, considering the extent of territory in China. It is suggested that all District Courts should have the same jurisdiction, for trial as well as for judicial process, but an American defendant may under certain conditions request transfer of jurisdiction from the local District Court to one of these, say, eight Courts which will have Special Chambers to deal with cases where Americans are defendants. This suggestion would seem to accomplish the desired object without the objections attaching to the original proposal.

## ARTICLE II

The creation of a Special Court of Appeals would involve serious difficulties as it would mean a radical change in the Chinese system of courts. Considerable opposition may also be expected from the Provinces. According to the present system, appeal in major cases lies from the District Court to the Provincial High Court. It is suggested that Provincial High Courts, at least those which may be expected to have many cases having foreigners as defendants, should have Special Chambers to deal with such cases and that appeal in such cases should go from District Court to the Provincial High Court.

The Supreme Court of China in the large majority of cases decides cases without a hearing because the appeals are on questions of law and the arguments of counsel are submitted in writing and if a new trial is necessary the lower court is ordered to conduct it. Such being the case a Special Chamber in the Supreme Court is unnecessary.

## ARTICLE III

With regard to the selection of legal counselors, nomination by the Permanent Court of Arbitration at The Hague seems impracticable since that Court is merely a panel of arbitrators who are called to perform their functions only when two disputant Governments nominate them. There seems to be no necessity for such cumbersome procedure if the qualifications of the counselors be clearly stipulated. The Chinese Government can then make the actual selection. It seems

wise that the question of the nationality of the counselors should not be emphasized. Their function is not to defend the interests of their nationals but to see justice done irrespective of nationality.

The legal counselors are to observe only those cases in which Americans are defendants.

#### ARTICLE III-A

The principle of evocation is highly objectionable to the Chinese and bids fair to die of desuetude even in Siam where it originated. As all the other provisions of this proposed Agreement and Annex are intended to give confidence to American nationals in China there seems to be no object in resorting to this method which is both redundant for Americans and disagreeable to the Chinese.

#### ADDITIONAL ARTICLE

With reference to the provisions in the Agreement and Annex that are restrictive in nature, e. g. Special Chambers and Legal Counselors, a time limit, say, two years, should be inserted.

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793.003/271

#### *Memorandum by the Acting Secretary of State*

[WASHINGTON,] February 6, 1930.

The Japanese Ambassador came in today and left the attached note.<sup>61</sup> He states this is a statement without reservation of the Japanese position as to extraterritoriality and he invites a similar statement of the American position if we can give it to him. I told him I would answer him.

J[OSEPH] P. C[OTTON]

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793.003/271

#### *The Japanese Embassy to the Department of State*<sup>62</sup>

The Japanese Government fully share the views expressed by various other governments that it is inadvisable to proceed to an immediate and unconditional abolition of the system of extraterritoriality in China. They are satisfied that an abrupt termination of such system without adequate provision for the future would lead not only to confusion in China's relations with foreign countries but also to equally harmful consequences to China herself. They

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<sup>61</sup> *Infra.*

<sup>62</sup> Handed to the Acting Secretary of State by the Japanese Ambassador on February 6, 1930.

have, however, on more than one occasion signified their agreement in principle to the removal of existing limitations upon China's jurisdictional freedom, and they are now ready to propose to the Chinese Government that extraterritoriality should be relinquished according to the progressive scheme outlined hereunder.

2. Upon the lapse of a stated period of time after the promulgation and putting into force by China of codes of law of primary importance, both substantive and adjective, conformable with modern concepts of jurisprudence, Japanese subjects in the territory of China, whether in districts open to foreign trade or not, with the exception of certain limited areas of a special nature, shall, in all civil cases, be amenable to Chinese laws and jurisdiction, subject to the following safeguards:

(a) Cases involving Japanese subjects as plaintiffs or defendants shall be tried and determined in Chinese modern courts through formal procedure and according to modern standards of law, and such courts shall be designated by agreement between Japan and China.

(b) The Chinese Government shall undertake to secure the services of judges of foreign nationality, who are to be authorized to take part in the trial and decision of the cases above defined.

(c) In all civil matters, the system of arbitration shall be generally permitted, and the rules and practice of civil detention shall not be applied to Japanese subjects.

(d) Japanese lawyers and interpreters retained by Japanese parties to the suit shall be allowed to appear in court.

3. It is to be understood that, upon the abolition of extraterritoriality in civil cases, Japanese subjects shall be permitted to reside and carry on trade in all parts of the country.

4. Upon the lapse of a further stated period of time after the termination of extraterritoriality in civil cases, Japanese subjects shall likewise in all criminal cases be amenable to Chinese laws and jurisdiction. Such entire abolition of the extraterritorial regime is predicated upon the assumption that the experience of the administration of justice in China shall in the meantime have proved satisfactory, and that normal conditions of order and progress shall obtain in that country, as in other civilized communities. Accordingly it is to be understood that, upon the complete relinquishment of extraterritorial privileges, Japanese subjects shall be permitted, on condition of reciprocity, to enjoy in all parts of China such private rights as are generally granted to foreigners in other countries, including rights in immovable property.

793.003/275

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*

[Extract]

[WASHINGTON,] February 10, 1930.

The Brazilian Ambassador called and, referring to a conversation with Mr. Hornbeck of a few weeks ago on the above subject, stated that he had reported to his Government the replies made to the inquiries which he had made and that he was instructed to express his Government's appreciation and to inform this Department with regard to the Brazilian Government's views.

The Ambassador stated that the Brazilian Government's view coincided substantially with that of the American Government; and that the Brazilian Government had informed the Chinese Government, through the Brazilian Chargé in China, that the Brazilian Government was favorable in principle to the negotiation of a treaty looking to the abolition of extraterritoriality, but that the abolition must be by gradual process, and that the Brazilian Government would not be able to recognize action, if taken, of a unilateral character.

S[TANLEY] K. H[ORNBECK]

711.933/269

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*

[WASHINGTON,] February 13, 1930.

Dr. Wu asked with regard to the meaning of the 11th Article in the memorandum of material for study of January 23.

The Article reads:

"In all matters for which provision is made in this Agreement (Treaty) citizens of the United States shall enjoy in China all of the rights enjoyed by the nationals of the country most favored in such respects and they shall not suffer treatment in any manner discriminatory as compared with citizens of the Republic of China or of any other country."

Dr. Wu asked whether this meant that the treatment to be accorded to American citizens under an agreement, when concluded, containing this Article was or was not to be in accordance with the other provisions of the Treaty without reference to the provisions which might appear in a treaty concluded by China with some other Power.

Mr. Hornbeck replied that this was, of course, a "most-favored-nation" clause. Dr. Wu repeated his inquiry, with some change of phraseology, stating that what he wanted to know was what would happen if some other country did not give up what the United States gave up. Mr. Hornbeck said that Dr. Wu would doubtless remember the lengthy conversation held in Mr. Johnson's office in the course of which Mr. Johnson had answered that question;<sup>63</sup> Dr. Wu had at that time suggested that China would like to have the United States relinquish extraterritorial rights on an absolute basis, meaning that American nationals and property would be in the same position in China as are the rights and property of German nationals and some others; Mr. Johnson had explained that it would be impossible for the Department to entertain any idea which would involve laying before the Senate a treaty by the provisions of which American nationals would enjoy in China treatment less favorable than that at the same time enjoyed by the subjects of other Powers, for instance, Great Britain, Japan, France, Italy and others; Mr. Hornbeck had been present and had fully shared and concurred in the opinion which was at that time expressed by Mr. Johnson; Mr. Hornbeck did not believe that any important Power would, in the present state of international development, conclude with another a treaty with regard to such matters which did not include the safeguards of a most-favored-nation clause.

Dr. Wu then raised the question of "American interpretation" of most-favored-nation clauses. He suggested that China might apply the "conditional" interpretation. Mr. Hornbeck said that there were two points to be considered in that connection: first, the so-called "American interpretation" had been expressly abandoned by the American Government some six or seven years ago,<sup>64</sup> the theory and practice of the American Government in recent years has been that of the "European interpretation" (unconditional), and it could scarcely be expected that the American Government would in this particular instance revert to and use the conditional form of the clauses; second, as China would be making treaties both with the United States and with the European countries, it could not be expected that China could use the conditional form and interpretation in some cases and the unconditional form and interpretation in others. There followed a somewhat lengthy discussion of principles and practice of most-favored-nation treatment and articles expressive of it in modern treaties; and Mr. Hornbeck gave Dr. Wu the authors' names and titles of the most modern books on the subject.

<sup>63</sup> Apparently a reference to the conversation on December 9, 1929; see memorandum, *Foreign Relations*, 1929, vol. II, p. 642.

<sup>64</sup> See instruction of August 18, 1923, to American Diplomatic Officers, *ibid.*, 1923, vol. I, p. 131.

Dr. Wu said that it might be difficult to determine what treatment would be the "most favored". If, he said, for instance, China made a treaty with the United States on the basis of categories of cases and a treaty with Great Britain on the basis of geographical regions, which treatment would be the "most favored"? Mr. Hornbeck replied that this might cause a good deal of confusion; that for purposes of consideration an endless number of hypothetical cases might be thought up; but that it would not seem that such a discussion would be likely to be profitable, for it was hardly to be expected that China would enter into a treaty with one country on one basis and at the same time enter into a treaty with another country on another basis. Dr. Wu replied that each country was insisting upon some particular thing and China had to adjust herself to the different types of demands. Mr. Hornbeck replied that, as for the United States, we had not as yet insisted upon any particular thing, except that the plan adopted should be one providing for the gradual abolition of extraterritoriality as set forth in our two notes to the Chinese Government; that we had as yet made only one proposal, the proposal that Chinese law be enforced in American courts, which proposal Dr. Wu had rejected; and that we were at present engaged in a process of exploring, with Dr. Wu, possibilities. Dr. Wu said that it was difficult to reconcile what seemed to be the ideas of the different foreign countries.

Mr. Hornbeck then took occasion to say that it was a matter to be regretted that China had already entered into several treaties on this subject, each differing more or less from the others; that it would be more to be regretted if in several additional treaties there are still greater points of divergence; and that all of this inevitably brought to mind the question: Would it not be to China's advantage and in the long run to the advantage of all concerned if China could arrange to have a conference whereby all of the negotiating could be done at the same place and at the same time?

Dr. Wu said that China's experience with conferences had been unfortunate. Mr. Hornbeck replied that the United States had also had some experience with conferences in which not everything had been to its satisfaction, but that, nevertheless, the conference method had its advantages and even now the United States was participating with other Powers in a conference. Dr. Wu said that he realized that there were advantages and disadvantages both ways.

Dr. Wu asked when he might have another conversation on the subject of the memorandum. Mr. Hornbeck said that he hoped to be ready within a day or two but that he could not at this moment set an hour, and he requested that he be allowed to let Dr. Wu know as soon as it proved possible.

S[TANLEY] K. H[ORNBECK]



793.003/271

*The Acting Secretary of State to the Japanese Ambassador  
(Debruchi)*<sup>65</sup>

Referring particularly to the statement of the Japanese Government's views given by the Japanese Ambassador to the Acting Secretary on February 6, the following comments are offered:

In reference to the progressive scheme outlined, it is noted that the scheme provides that after the promulgation and putting into force by China of codes of law, a certain period of time is to elapse. Thereafter, Japanese subjects in China, except in certain limited areas of special nature, shall, in civil cases be amenable to Chinese law and jurisdiction, subject to certain safeguards. Among the safeguards: cases involving Japanese subjects are to be tried in Chinese modern courts; the Chinese Government is to undertake to secure the services of judges of foreign nationalities who are to be authorized to take part in trials and decisions; in civil matters, arbitration is to be permitted and the rules and practice of civil detention are not to be applied to Japanese subjects; and Japanese lawyers and interpreters shall be allowed to appear in court. It is provided that upon the abolition of extraterritoriality in civil cases Japanese subjects are to be permitted to reside and carry on trade throughout China. It is provided that, after the termination of extraterritoriality in civil cases and upon a further lapse of time, Japanese subjects are to become amenable to Chinese jurisdiction in criminal cases, this being predicated on the assumption that the experience of the administration of justice in China shall have proved satisfactory and that normal conditions of order and progress prevail in China.

The Department would appreciate being informed whether this progressive scheme as outlined has been laid before the Chinese Government.<sup>66</sup> It would also appreciate information with regard to the possible length of the periods of time and lapses of time or possible dates which the Japanese Government has in mind.

The Department would appreciate being informed with regard to the extent to which the Japanese Government and the British Government or their representatives in China are cooperating in the formulating of proposals and the carrying on of discussions with the Chinese Government.

<sup>65</sup> Notation on margin by the Chief of the Division of Far Eastern Affairs, February 18, 1930: "Read (but not given) by Mr. Cotton to the Japanese Ambassador."

<sup>66</sup> In reply to the oral query by the Acting Secretary of State, the Japanese Ambassador stated that the matter had not been submitted to the Chinese Government (793.003/271).

793.003/271

*The Department of State to the Japanese Embassy*<sup>67</sup>

The Department has read with care the statement handed by the Japanese Ambassador to the Acting Secretary on February 6, in which is given an outline of the Japanese Government's views with regard to the question of extraterritoriality in China.

The views of the American Government and the action taken by the Department up to date are expressed or recorded in the papers hereunder which will be given by the Acting Secretary to the Japanese Ambassador.

In connection with the question of negotiations on the subject of an agreement for the abolition of the extraterritorial jurisdiction exercised in China by the American Government, it should be understood that the American Government is not as yet committed definitely to any particular plan but is considering, by means of discussions between officers of the Department and the Chinese Minister, various plans and possibilities.

[Enclosure 1]

*The Department of State to the Japanese Embassy*

The statement herewith was read to the Chinese Minister at the Department of State on December 28, 1929.

[Here follows text of undated statement printed in *Foreign Relations*, 1929, volume II, page 665.]

[Enclosure 2]

*The Department of State to the Japanese Embassy*

The statement attached was prepared as a record of the views of the American Government in regard to the Mandate issued by the Chinese Government on December 28, 1929, and the public statement made by the Chinese Minister for Foreign Affairs on December 30, 1929.

[Here follows text of memorandum dated January 4, 1930, beginning with "it having been reported . . .", printed on page 359.]

[Enclosure 3]

*The Department of State to the Japanese Embassy*

The attached is a memorandum of material for study, prepared in the Department of State, in relation to the Chinese Government's request for the abolition of extraterritorial jurisdiction in China. A

<sup>67</sup> Handed by the Acting Secretary of State to the Japanese Ambassador on February 18, 1930.

copy of the memorandum was handed to the Chinese Minister on January 23, 1930,<sup>69</sup> with the express statement that it was for purposes of study and was not to be taken as a definite offer or commitment on the part of the American Government.

The Chinese Minister has submitted in return a memorandum of comments<sup>70</sup> with regard to parts of this memorandum, which views the Department regards equally as not in any way constituting an offer or commitment on his part. The comments which the Minister has submitted are being given consideration. Meanwhile the Department is continuing its study of this and other possible plans for the gradual relinquishment of extraterritorial jurisdiction over American citizens in China.

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793.003/292 : Telegram

*The Acting Secretary of State to the Ambassador in Great Britain  
(Dawes)*

WASHINGTON, February 19, 1930—6 p. m.

41. Your 34, February 17, noon.<sup>71</sup> For oral communication to Foreign Office:

The Department believes that the character of the conversations with the Chinese Minister here has already been sufficiently explained. Reference: Hornbeck's conversation with Campbell, January 25,<sup>72</sup> and Department's telegram to Embassy, 36 of February 15 [14], 5 p. m.<sup>73</sup>

In the course of Department's conversations with Wu there have been submitted to Wu three documents. First, a definite proposal given to Wu on December 21;<sup>74</sup> a copy of the draft of that proposal was enclosed with Johnson's letter to Campbell of December 4.<sup>74</sup> Second, a slightly modified form of same, to Wu, on December 28.<sup>75</sup> Third, a draft of materials for study was given to Wu on January 23, with the express statement that it was not an offer and was submitted without commitment; a copy of this was given to Campbell, with some explanation, on January 25.

Wu declined to take seriously the proposal of December 21 and 28, but the Department still has in mind the possibility of bringing it forward again.

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<sup>69</sup> For text of memorandum, see p. 363.

<sup>70</sup> For personal observations of the Chinese Minister, handed on February 6 to the Chief of the Division of Far Eastern Affairs, see p. 373.

<sup>71</sup> Not printed.

<sup>72</sup> See footnote 54, p. 363.

<sup>73</sup> *Foreign Relations*, 1929, vol. II, p. 657.

<sup>74</sup> *Ibid.*, p. 635.

<sup>75</sup> *Ibid.*, p. 664.

In connection with the materials given Wu on January 23, Wu has recently submitted certain comments, which the Department is studying.

In giving to Wu on January 23 the draft of materials for study, the Department acted on its estimate of the political situation in the light of the Chinese Government's Mandate of December 28, Wang's statement of December 30,<sup>76</sup> Lampson's mission to Nanking, Henderson's<sup>77</sup> statement in Parliament of January 22, and other developments. The material submitted to Wu on January 23 was deliberately made sufficiently definite in form to facilitate discussion and sufficiently comprehensive and elastic with regard to provisions to ensure consideration and elicit counter suggestions.

On January 23 the Department telegraphed the Embassy<sup>78</sup> requesting information with regard to Henderson's reported statement of January 22. The Embassy replied on January 24<sup>78</sup> that it had been informed that Henderson's statement was prepared in December and was based on no new developments, that Lampson's negotiations had been begun on January 9 and that Wang had submitted to Lampson on January 10 an outline of proposals of which Foreign Office had now given the Embassy in confidence a copy. The only other information which the Department has had with regard to Lampson's negotiations has been conveyed in a telegram from Johnson, China, February 3, which contains the statement that Lampson's "proposal is practically that of the *aide-mémoire* submitted to the Department in November." But the Department finds in that document in this *aide-mémoire* covered by Johnson's letter to Campbell of December 4 nothing in the nature of an outline of a proposal formulated for submission as such to the Chinese Government. The Department thus is still uninformed with regard to proposals, offers or suggestions which the Foreign Office through Lampson actually may have made to the Chinese; and Department has been given no information with regard to progress made in the course of the British negotiations.

The Department is continuing its study of the possibilities, it has not abandoned its declared position that abolition of extraterritorial rights must be by a gradual process and subject to safeguards, and it would welcome such information as the Foreign Office may be disposed to give with regard to the points mentioned in the paragraph above.

COTTON

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<sup>76</sup> See telegrams of December 28 and December 30, 1929, from the Consul at Nanking, *Foreign Relations*, 1929, vol. II, pp. 666 and 668.

<sup>77</sup> Arthur Henderson, British Secretary of State for Foreign Affairs.

<sup>78</sup> Telegram not printed.

793.003/293 : Telegram

*The Ambassador in Great Britain (Dawes) to the Acting Secretary of State*

LONDON, February 21, 1930—6 p. m.

[Received February 21—4 p. m.]

36. Department's 41, February 19, 6 p. m., was discussed with Foreign Office today who state that on February 14, British Embassy was authorized to bring State Department to date on all main points of Lampson's negotiations.

I gather these negotiations are at a deadlock and suspended and that Foreign Office now is considering policy to pursue. In these considerations the attitude of the Department is admittedly of the greatest importance, especially as to the main point the Department will hold out for in its negotiations on modifying the extraterritoriality status. Foreign Office points out its paramount concern as regards criminal jurisdiction and foreign [co-]judges. Yet the probability is envisaged that both these points cannot be maintained successfully with the Chinese, and Foreign Office consequently extremely concerned as to American attitude and which one of these two points in particular the Department would if expedient be ready to abandon first.

Foreign Office will authorize British Embassy to explain to the Department recent situations since February 14; I gather, with the hopes that after full understanding of Lampson's proposals and negotiations has reached the Department some informal expression of the American viewpoint, especially along the lines I have indicated above, may be made to the British representative.

DAWES

793.003/292 : Telegram

*The Acting Secretary of State to the Consul General at Shanghai (Cunningham)*

[Paraphrase—Extracts]

WASHINGTON, February 25, 1930—7 p. m.

For the Minister as the Department's 75. Department's 61, February 15, 6 p. m.<sup>79</sup>

You should frankly discuss with the British Minister the subject of "cooperation", distinguished from either concurrent action or "united front", as regards the problem involved. Your letter to Counselor Campbell, you will explain, stated that the Department had under

<sup>79</sup> Not printed; it reported discussions with Great Britain.

consideration several possible plans. Negotiations in Washington, you will explain, are being slowly carried on, the Department now being engaged in studying new materials submitted recently by the Embassies of Japan and Great Britain, together with the Chinese Minister's comments on the materials given on January 23 to him; and it will be some weeks in all probability before the Department reaches the point to submit to the Chinese Minister anything which is in the nature of a definite proposal. Also, you may state that it continues to be the opinion of the Department that frank exchanges of information and views will be advantageous to all concerned.

The Department is confidentially informed that the Chinese Minister will shortly leave Washington to attend the Conference at The Hague on International Law, beginning March 13. The Chinese Minister is being reminded by the Department that the materials submitted January 23 involve no commitment.

It is desired by the Department that you cable (a) a brief estimate of the Chinese political situation in its bearing upon whether haste or delay is desirable in regard to these negotiations, and (b) your confidential and frank opinion as to whether the transfer of negotiations from Washington to Nanking might facilitate the solution of the extraterritoriality problem, the Department having very tentatively under consideration such transfer as a possible move to be decided upon a few weeks hence.

COTTON

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711.933/275

*Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Netherlands Minister (Van Royen)*

[WASHINGTON,] February 25, 1930.

The Minister called and stated that he wished to inquire with regard to the present situation in China and any developments which might have taken place in connection with the subject of extraterritoriality. . . .

The Minister inquired whether this Government did not feel that it would be desirable to present to the Chinese a united front. Mr. Hornbeck replied that a great deal of thought had been given to that question; that there were physical obstacles and political obstacles. The physical difficulty lay in the fact that some of the negotiations are being conducted in China while the American negotiations are being conducted in Washington. The principal political obstacle lay

in the fact that the American Government has but one question with which to be concerned in this connection, namely, that of extraterritorial jurisdiction as such, whereas some other Governments have other questions to which they must necessarily give consideration in connection with the negotiations on this question, such as concessions and leased territories. The American Government realized that in connection with extraterritoriality proper all of the Powers have the same concern, namely, that of adequate protection of their nationals in China. In regard to that, their objectives were all the same. But if one country has one question only to negotiate with the Chinese while another country has two questions and a third country three questions, etc., there is difficulty with regard to a united front. In addition, if the foreign countries form a bloc and the Chinese discover that they are, by agreement, presenting identic plans and, by agreement, opposing whatever the Chinese propose which is not in agreement with those plans, the likelihood is that the Chinese would be encouraged to break off negotiations with the whole group collectively and, by unilateral action, declare the extraterritoriality provisions of the treaty abrogated. The Minister said that there was a great deal in that point of view. Mr. Hornbeck said that he thought it must be realized that throughout this period the Powers are confronted by a two-fold problem: On the one hand they have the problem of devising plans for the abolition of extraterritoriality by agreement; and at the same time on the other hand they have the problem of so conducting the negotiations as to give the Chinese neither opportunity nor excuse for arbitrary and unilateral action in the direction of disposing of the problem without agreement. The Minister said that he also realized that that was the case. Mr. Hornbeck said that the American Government was conservatively disposed in reference to the question of proceeding gradually and erecting safeguards, but that he felt that we could not assume that the Powers could lay down whatever terms they chose and suit their own convenience as to the periods of time which shall elapse before an agreement is made and between the successive steps to be taken within the terms of an agreement. Nevertheless, the Minister should understand that it was not the idea of the American Government to rush rapidly ahead with the negotiations; that the Department is studying all the materials available, particularly the views expressed by the other Governments concerned; that this Government wishes to cooperate with the other Governments and hopes for free and frank interchange of views, suggestions and information but is not in position to promise identity of action.

The Minister said that he very much appreciated being given this frank account.

S[TANLEY] K. H[ORNBECK]

711.933/276

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*

[WASHINGTON,] February 26, 1930.

Dr. Wu came in by appointment. After several outstanding minor questions were disposed of, Mr. Hornbeck referred to Dr. Wu's request of a few days before that the discussion of the subject of extraterritoriality be resumed at an early date. Mr. Hornbeck said that study had been given to the memorandum presented by Dr. Wu under date February 6. In reply, a memorandum had been prepared. (Note: This memorandum was read to Dr. Wu and a copy was given him. A copy is attached.)

Dr. Wu said that he noted the statement that a new draft of a possible plan was to be prepared. Did that mean that the material given him on January 23 would be entirely discarded? Mr. Hornbeck replied that those materials as a setup would be discarded, just as a particular architect's sketch might be discarded and the draftsman prepare an entirely new sketch, but that doubtless many features which had appeared in previous sketches would be worked into the new sketch.

Mr. Hornbeck said that he thought Dr. Wu might be interested in examining before he left a very rough sketch of a portion of what might be made the starting point for a new plan. (Note: Mr. Hornbeck gave Dr. Wu certain pages, copy attached.)

Dr. Wu said that he was leaving for The Hague on February 28. He did not know how long he might be away, but hoped that it would be for not longer than approximately five weeks. He hoped that if a new sketch were ready it might be communicated to him at The Hague.

S[TANLEY] K. H[ORNBECK]

[Annex 1]

*The Chief of the Division of Far Eastern Affairs (Hornbeck) to the  
Chinese Minister (C. C. Wu)*

[WASHINGTON,] February 26, 1930.

Personal observations of Mr. Hornbeck in relation to memorandum covered by Dr. Wu's personal note of February 6, 1930.

1. It is noted that Dr. Wu's memorandum is headed "Personal observations of Mr. Wu on the Draft Agreement and Annex proposed on January 23, 1930". By way simply of reminder, it should be pointed out that the materials handed by Mr. Hornbeck to Dr. Wu on January 23 were submitted on Mr. Hornbeck's responsibility as



materials for study; they did not constitute a proposal; and they were not to be regarded as in any respect a commitment.

2. It is believed that it might be practicable to arrange that all District Courts have trial jurisdiction; but if this were agreed to it would seem that the conditions under which American defendants may be accorded transfer of jurisdiction from the local District Court to a Special Court or a Court with Special Chambers be specified.

3. It might be possible to arrange that appeals be heard by the Provincial High Courts, *provided* that in those Courts there be established Special Chambers to deal with cases wherein American citizens are involved. Further information with regard to the method of procedure of the Supreme Court of China will be welcomed.

4. The provisions of Article III of the materials submitted on January 23 were designed to obviate dictation on the part of the American Government in connection with the naming of legal counselors. If it be preferred that the agreement entered into "clearly stipulate" the qualifications of the legal counselors and other specifications with regard to them, this could probably be arranged. Safeguards should be devised to ensure against pressure which might be brought to bear upon the Chinese authorities to appoint an undue or preponderant number of legal counselors or judges of any one nationality.

5. The principle of evocation was brought into the set-up under discussion for the reason, principally, that it was felt that this particular set-up was so liberal that without such a safeguarding provision it would be impracticable even to give it consideration. Mr. Hornbeck personally is not disposed to emphasize the inherent importance of such a provision; but as an item in this particular set-up of a possible plan, this provision must be regarded as one of considerable importance.

6. It is not believed that a time limit of two years could be agreed to. Dr. Wu will remember that in the course of conversations heretofore held, Mr. Hornbeck has made reference to the Chinese Government's own indication of dates in connection with the second period in the prescribed program of China's political reorganization; also that in the draft of the definite proposal submitted to Dr. Wu on December 21 (and in a somewhat amended form on December 28) <sup>80</sup> definite intimation was given of the American Government's view with regard to one period at least of time. Reference is now made to

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<sup>80</sup> See *Foreign Relations*, 1929, vol. II, pp. 657 and 664.

the statements made in the concluding paragraphs of the American Government's notes of August 10 and November 1.<sup>81</sup>

7. Further consideration will be given to the comments made by Dr. Wu, but in view of Dr. Wu's definite objection to the principle of evocation, and in the light of consideration which has been given to this set-up since January 23, it is Mr. Hornbeck's feeling that it is desirable at this stage to consider this set-up rejected. It is believed that substantial portions of it may be made use of for another set-up which will be prepared.

[Annex 2]

*The Department of State to the Chinese Legation*

Material for Study. No Commitment

I

Upon the signing of this Agreement definite steps shall be taken toward effecting the relinquishment by the United States of the right of extraterritorial jurisdiction by the American Government over American citizens in China. A commission shall be established at the earliest possible moment, which shall consist of two commissioners chosen by the Chinese Government, two commissioners chosen by the American Government and one commissioner chosen by these four who shall be a national of a third Power. This commission shall be appointed within two months after the exchange of ratifications of this Agreement and shall be charged with the examination of the civil laws and legal regulations which have been regularly promulgated by the National Government of the Republic of China and effectively and regularly applied in Chinese courts in relation to civil cases. After such examination, the commission shall designate those laws and regulations which it considers as conforming to modern concepts of jurisprudence, and such civil laws and regulations shall be applicable to American citizen who, in civil cases brought under these designated laws and regulations, shall, other than as provided by this Agreement, be subject to the jurisdiction of modern courts of justice ( ) through which judicial orders may issue in accordance with law and established procedure.

American citizens shall not be subject to the jurisdiction of Magistrate's courts, military courts or police courts. While any of the several modern courts now established in China may take jurisdiction for the purpose of the issuing of judicial process looking to the establishment of a *prima facie* case in any civil case involving an American

<sup>81</sup> See telegram No. 254, August 1, 1929, to the Minister in China and telegram No. 958, November 4, 1929, from the Minister, *ibid.*, 1929, vol. II, pp. 596 and 616.

citizen, such case, upon the request of the American citizen interested, shall be brought to trial before one of the modern courts established at Harbin, Mukden, Tientsin, Shanghai, Hankow, Chungking, Canton or Yunnanfu, at each of which places there shall be created a special bench to hear cases involving American citizens. However, in the absence of any specific request from the American citizen concerned in a civil case, such case may be brought to trial before the modern court normally having jurisdiction over civil cases.

In the modern courts designated for the trial of cases involving foreigners at each of the eight cities named above, there shall be created a special bench for the trial of foreigners, this to consist of a Chinese judge and a foreign judge, the latter to be appointed by the Chinese Government from a panel of jurists supplied by the Hague Court of Arbitration. The foreign judge shall hear the case and shall render decision jointly with the Chinese judge, and the powers of the two shall be co-extensive.

In view of the fact that a considerable part of China's laws have not as yet been codified and enforced in Chinese courts, it is contemplated that the extent of jurisdiction in civil cases, as ordinarily determined by the special commission referred to in the first paragraph of this Article, shall be increased as new codes are elaborated and enforced and as the number of effectively functioning modern courts becomes sufficient to cope with an increase in jurisdiction. The matter of increases in jurisdiction shall be dealt with by a commission appointed in the manner referred to in paragraph one above.

It is further contemplated that after a period of three years, in which the workings of the special benches have been carefully observed, the matter of the extension of Chinese jurisdiction over American citizens in criminal cases shall receive further attention, the action to be taken in this respect to be determined in the light of experience of the working of the present provisions.

## II

Appeals from the decisions of these special benches in the courts of first instance, designated above, shall lie to the Provincial High Courts in accordance with established procedure, except that there shall be created a similar special bench in the appeal court. Should there be a deadlock between the Chinese and foreign judges in the court of first instance, the matter shall be referred to the special bench of the Provincial High Court concerned and in the event of a deadlock between the judges of this appeal court the case shall then be transferred to the Supreme Court of China for decision.

## III

The Chinese Government agrees to take immediately into its service for such period as it may consider necessary, not being less than five years from the date of the signing of this Agreement, a number of foreign judges who shall be selected and engaged as officials of China by the Chinese Government from a panel of legal experts nominated by . . . . . In addition to preparing the panel of nominees, the . . . . . shall recommend the amount and the conditions of payment of the salaries of the legal counselors to be thus selected by the Chinese Government. The panel shall be selected by the . . . . . from lists prepared by the law associations of the several countries concerned, the . . . . . nominations and the final selection by the Chinese Government to be made with particular regard to the merit and standing as jurists of the several nominees. China and each of the foreign countries interested shall have equal representation on this body of foreign judges as finally appointed by the Chinese Government. These judges shall serve under the Minister of Justice and shall normally be stationed at Shanghai, from which place they may be deputed by the Ministry of Justice, as occasion requires, for service, during the hearing of cases involving foreigners enjoying extraterritorial rights, in those modern courts especially designated for the trial of such cases. It shall be the duty of these judges to sit with the Chinese judges on the special benches described in Articles I and II both to hear all evidence and to render joint judgment with the Chinese judge with whom they sit and with whose powers as judge the powers of the foreign judges shall be exactly coextensive in respect to any cases before the court. These foreign judges shall be free from arrest or molestation because of any of their official acts, and the Chinese Government shall make special provision to ensure the payment of their salaries, travel allowances, and any other remuneration which shall be determined at the time when such foreign judges are appointed as Chinese judicial officials.

[WASHINGTON,] February 21, 1930.

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711.933/277

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*

[WASHINGTON,] February 27, 1930.

Dr. Wu called and began the conversation with a discussion of the question of visas which he had raised on February 26. (Note: See memorandum of even date.<sup>82</sup>)

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<sup>82</sup> Not printed.

Dr. Wu then said that he had looked over the pages which contained a portion of what might be made the starting point for a new plan with regard to the abolition of extraterritoriality. He said that he did not think very much of the ideas therein embodied; that it looked as though someone had made a collection of ideas to which, in the course of conversations during the past year, he had voiced objections. He said that it sounded reactionary.

Mr. Hornbeck said that the problem with which he and Dr. Wu were dealing must be regarded as that of preparing a plan which would: first, satisfy our respective Secretaries of State; second, satisfy the ratifying agencies; and, third, have practical value by virtue of being in line with such agreements as might be concluded between China and other Powers, it being obvious that the rights enjoyed by foreign nationals in general in China could not vary materially as among the nationals of the various Powers with whose governments the Chinese are now negotiating. Dr. Wu said that whatever agreement might first be concluded between China and one other Power would serve as a model for the other agreements to be concluded. He said that it had been intimated to him that the British Government, feeling that the United States had stolen a march on the other countries in concluding the first tariff treaty in 1928,<sup>33</sup> was anxious to be the first government now to conclude an extraterritoriality treaty. Mr. Hornbeck replied that he thought that everybody would be pleased if the British Government were the first to succeed in the present instance as that would simplify the problem for the others. Dr. Wu said that he would prefer that the American Government would be the first. Mr. Hornbeck said that what this Government was interested in was not the question of who should be first but that the problem in hand be so dealt with and the agreement arrived at be such that through it the legitimate interests of all concerned would be best served.

Mr. Hornbeck said that it was his hope that, during Dr. Wu's absence, a good deal of useful study might be given to the subject and that in the interval if anyone made effective progress toward discovering the basis of a practical agreement everybody ought to be gratified.

S[TANLEY] K. H[ORNBECK]

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<sup>33</sup> *Foreign Relations*, 1928, vol. II p. 475.

711.933/269

*The Acting Secretary of State to the Minister in China (Johnson)*

No. 22

WASHINGTON, March 3, 1930.

Referring to the Department's instruction No. 1462, of January 29, 1930,<sup>84</sup> and to previous correspondence, there is enclosed, for the information of the Minister, a copy of a memorandum of a conversation between the Chief of the Division of Far Eastern Affairs and the Chinese Minister on February 13, 1930,<sup>85</sup> in reference to the Chinese Government's proposal for the abolition of extraterritoriality.

It will be observed that in the conversation of which this memorandum was a record, as in previous conversations of officers of the Department with the Chinese Minister, the endeavor was made to make it clear to the Minister that it cannot be expected that the American Government will enter into an agreement with the Chinese Government which would in effect place American nationals and interests in a less favored position in China than is accorded by China to the nationals and interests of any other country.

Referring particularly to the paragraphs of pages 4 and 5 of this memorandum in which mention is made of the query whether it would not be advantageous "if China could arrange to have a conference whereby all of the negotiating could be done at the same place and at the same time", it should be understood that this query was made not with a view to suggesting that a conference as such would be the best procedure, but with a view to causing the Minister to realize that the subject under discussion between him and the Department is regarded by the Department as one in connection with which the interests of the United States, and therefore the objectives, are not dissimilar or independent of the interests of the other foreign Powers which have negotiated with China or which are negotiating with China. Also, it was intended in this connection that the Minister be made to realize that the inconveniences and delays attendant upon the present negotiations between China and the United States are due in part to the fact that these negotiations are being conducted in Washington, on the initiative and at the request of the Chinese Government, rather than in China.

[File copy not signed]

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<sup>84</sup> Not printed.<sup>85</sup> *Ante*, p. 377.

793.003/330

*The British Chargé (Campbell) to the Chief of the Division of Far Eastern Affairs (Hornbeck)*

WASHINGTON, March 4, 1930.

MY DEAR DR. HORNBECK: In a recent conversation you stated that there were several points in the memorandum enclosed in Mr. Nelson Johnson's letter to me of December 4th last <sup>86</sup> on which His Majesty's Government's views and suggestions had been requested, but had not yet been received by the United States Government. The Foreign Office ask me to point out the only matters in regard to which His Majesty's Government's views and suggestions were asked, apart from the matter dealt with in my letter of February 13th, were matters of detail (shipping, taxation, domiciliary visits etc.) which were being left to Sir M. Lampson to work out with Dr. Wang-Pu <sup>87</sup> within the framework of the memorandum the text of which was communicated to Mr. Johnson on November 18th. <sup>88</sup>

I am to inform you that no negotiations whatever took place on this subject until the conversations in January reproduced in the enclosure to this letter, when, as you will see Dr. Wang-Pu presented a written skeleton of the Chinese plan to which Sir M. Lampson responded by presenting on February 3rd a memorandum based on that the text of which was communicated by me to Mr. Johnson on November 18th last. A copy of the memorandum presented to Dr. Wang-Pu was given at the same time to Mr. Johnson <sup>88</sup> who informed Sir M. Lampson that the United States Government were submitting a communication through the Chinese Minister in Washington embodying the principle of foreign legal advisers and *not* co-judges. By this time however the presentation of the State Department's outline of possible provisions of agreement to the Chinese Minister on January 23rd, without any previous warning which might have enabled His Majesty's Government in the United Kingdom to make any necessary adjustments in their policy, had, in His Majesty's Government's view, led to its being impossible to negotiate with any prospect of success for the safeguards abandoned in the outline, and indeed attempts to secure such safeguards may now merely give rise to friction and to agitation directed against the power concerned. The Foreign Office state that the new situation thus created is now under discussion with Sir M. Lampson and that as soon as a definite decision as to His Majesty's Government's future course is reached, it will be communicated to the Government of the United States.

<sup>86</sup> *Foreign Relations*, 1929, vol. II, p. 635.

<sup>87</sup> Dr. C. T. Wang, Chinese Minister for Foreign Affairs.

<sup>88</sup> Not printed.

I should perhaps here say that the above was written before you had informed me, and I had reported to the Foreign Office, that you were convinced that Dr. Wang-Pu could not on February 3rd have had knowledge of the contents of the outline of possible provisions of agreement of January 23rd.

In the meantime, while the decision to be taken is being discussed with His Majesty's Minister, Mr. Henderson desires me to explain developments to you and I shall be grateful if you will inform me when it would be convenient for me to call on you.

Yours sincerely,

RONALD CAMPBELL

[Enclosure]

*The British Embassy to the Department of State*

AIDE-MÉMOIRE

1. Sir M. Lampson had his initial discussion with the Chinese Minister for Foreign Affairs in Nanking on January 9th. The Minister for Foreign Affairs brought up the question of extraterritoriality, and it was agreed to hold an informal exchange of views before any formal meeting with experts.

2. The Minister for Foreign Affairs sketched out his plan, saying it had already been put in in London. It provided for the adoption of the geographical method, for total abolition, for special courts in five specified areas to which all foreign defendants might have their cases brought, these courts to have a foreign element.

3. Sir M. Lampson explained to the Minister for Foreign Affairs that he could only at present deal with general principles, that if these could be agreed upon the moment might come when they might usefully have a technical committee to study the details of their application. Sir M. Lampson's first principle must be that of gradual abolition of extraterritoriality: any progress would be difficult unless that were admitted. Elaborating this theory, His Majesty's Minister reminded Dr. Wang-Pu of the offer of January 1927<sup>80</sup> and classified into three classes the cases to which His Majesty's Government in the United Kingdom adhered: next, he said, would come the question of safeguards. But he might say at once that His Majesty's Government were, as a result of great study, opposed to the geographical method.

4. As regards the foreign element which Dr. Wang had said the special courts should have, His Majesty's Minister gathered that foreign advisers were contemplated and then only (if he had under-

<sup>80</sup> Published on January 22, 1927, by the British Foreign Office. For summary, see note of January 19, 1927, from the British Ambassador, *Foreign Relations*, 1927, vol. II, p. 344.



stood correctly) in criminal cases. He reminded Dr. Wang again of His Majesty's Government's classification and put it to him that negotiations between His Majesty's Government and the National Government would be immensely facilitated if he would agree to foreign judges. Dr. Wang-Pu hinted that this might be possible if His Majesty's Government gave up criminal jurisdiction as well. Sir M. Lampson said this was quite out of the question. To the Minister for Foreign Affairs' direct enquiry whether it was His Majesty's Government's idea to retain consular courts in China for certain classes of cases, His Majesty's Minister replied "Most certainly, yes."

5. Finally Sir M. Lampson obtained from Dr. Wang-Pu an undertaking to send his plan in writing so that he might see how far it might be possible to see where His Majesty's Government and the National Government differed and where it might be possible to build upon his plan, and it was agreed to hold another informal meeting before formal discussions with experts in attendance were begun.

6. Sir M. Lampson warned Dr. Wang-Pu several times during the conversation against trying to hurry matters too much. His Majesty's Government were desirous of helping him, but the British were by nature slow and cautious movers, and in his own interests Dr. Wang-Pu must not open his mouth too wide. For example neither His Majesty's Government, British Parliament nor people would tolerate surrender at present of criminal jurisdiction.

7. At a second interview, on January 10th, Dr. Wang-Pu supplied Sir M. Lampson with a written skeleton Chinese plan, the text of which was as follows:—

"1. Beginning from the 1st January, 1930, all British subjects in China shall obey its laws, ordinances and regulations duly promulgated by the central and local Governments of China.

"2. All British subjects in China shall be subject to the jurisdiction of Chinese modern courts.

"3. In district courts in Canton, Hankow, Shanghai, Tientsin and Harbin and in high courts having appellate jurisdiction over such district courts a special chamber shall be established for exclusively dealing with civil and criminal cases in which a British subject is the defendant.

"(The territorial jurisdictions of special chambers need not correspond with the territorial jurisdictions of courts to which they belong, but they cannot be too wide.)

"4. The chief judge of a special chamber shall be the president of the court to which the chamber belongs. Other judges of special chamber as well as its procurators shall be selected from among legal scholars with training of a long duration. Their names, ranks and salaries together with their past experiences will be made known to the public.

"5. To each special chamber shall be attached a certain number—say one to three—of legal advisers who shall be selected by the Chinese Government from among foreign well-known legal experts and whose names, together with their past experience, will be made known to the public.

"6. The legal adviser shall not in any way participate in trial of cases, but in courts of first and second instance he may have access to the file of the proceedings and present in writing his views on legal questions.

"The judges shall give due consideration to the views thus expressed by the legal adviser, but may always render their decisions independently of such views.

"7. Any British subject arrested by the police on suspicion of having committed a crime shall, within twenty-four hours after arrest, exclusive of holidays, be sent to the nearest court for trial.

"8. The arrangement regarding special chambers and legal advisers shall terminate after a period of ten years."

8. This seemed similar to an outline which was communicated to His Majesty's Government in London on November 25th and of which the Secretary of State was informed in Sir E. Howard's note No. 667 of December 21st,<sup>91</sup> except that the proviso that cases between nationals of the same country might be heard outside China had been omitted (because, as the Minister for Foreign Affairs explained, a similar proviso in the case of Turkey had not worked in practice) and in its place the Chinese Government proposed to enact a law covering arbitral awards as between all nationals in China.

9. Sir M. Lampson told Dr. Wang-Pu that provision for arbitration was one of His Majesty's Government's points and that he welcomed the Chinese Government's intentions. As to the written proposals, he must study these carefully, but he noticed at once that criminal jurisdiction was included. That he could not in any circumstances admit, and here he read to Dr. Wang-Pu the second paragraph of the memorandum enclosed in the letter addressed to Mr. Johnson by His Majesty's Chargé d'Affaires on November 18, 1929. Sir M. Lampson next turned to the offer of judicial advisers and repeated that His Majesty's Government desired to have foreign judges. Finally Dr. Wang-Pu asked if Sir M. Lampson could give him a rough skeleton just as he had done of His Majesty's Government's ideas of a satisfactory agreement. His Majesty's Minister said he would see if this were possible under his instructions and he sought authority to crystallize the pith of the plan as given in the above mentioned memorandum in a written communication to the Chinese Foreign Minister.

10. The above reproduces fully Sir M. Lampson's reports of his discussions with Dr. Wang-Pu up to February 3rd.

<sup>91</sup> *Foreign Relations*, 1929, vol. II, p. 657.

11. In the meantime His Majesty's Minister had received no instructions on this subject of extraterritoriality additional to the telegram of November 2nd containing His Majesty's Government's plan, except on January 9th when a telegram in the following sense was despatched to him:—

The absolute exclusion of the subject of taxation from the scope of the present negotiations would in all probability prove to be impossible.

It was really a question of Chinese law whether proceedings for non-payment of taxation were regarded as criminal or civil, but irrespective of whether such jurisdiction was criminal or civil in character, the question of its transfer to Chinese courts could be considered on its merits.

In the first place, a very clear definition would be necessary of what constituted legal taxation for the payment of which British subjects were to be held liable. It would probably prove necessary now to go beyond the terms of the 1927 offer in this connection and include municipal and other taxation for local purposes. Mr. Henderson therefore suggested that in cases of national taxation British subjects should only be legally liable to pay a tax which satisfied the conditions of the 1927 offer; in the case of local taxes, the tax must have been sanctioned by the central Government in addition to being non-discriminatory.

In both cases a defined procedure for promulgation and notification would be necessary. In the case of municipal taxation, an effort to secure recognition of the principle that the proceeds of such taxes could only be spent on public purposes within the area in which they were levied, might be desirable. That the Chinese Government should expressly recognize the validity of special taxation agreements such as those made with the Kailin Mining Administration was a further stipulation which seemed advisable.

Taxation cases might be considered as one of the subjects in regard to which jurisdiction might be transferred to Chinese courts provided adequate safeguards could be secured, as long as what constituted legal taxation could be defined with a considerable degree of certainty. But without such a definition it would hardly be possible to agree to such a transfer of jurisdiction. In this connection, it was important that the procedure for assessment should be satisfactory and that it should be known in what Chinese courts it was proposed that disputes as to assessments etc. should be decided. Acceptance of anything in the nature of administrative tribunals for this purpose would presumably be difficult. An intermediate stage in which British courts would enforce Chinese taxation was a possibility which should not be lost sight of, but if assessment were entirely in the hands of Chinese officials or tribunals, this would not be of much value.

12. On January 15th Sir M. Lampson was authorized to give to Dr. Wang-Pu in a written communication the pith of His Majesty's Government's plan already referred to and after his draft had been approved on January 20th, he communicated it to Dr. Wang-Pu at their next interview on February 3rd. The text of this document is as follows:—

"The abolition of extraterritoriality must be a gradual and evolutionary process, and the extent of initial modifications that can be made in the present system and rate of subsequent progress must be determined by the extent to which the Chinese Government accept this underlying idea and the nature of the safeguards that they may be willing to erect at each stage of the process.

"2. Such progressive abolition should follow method of transfer of jurisdiction by subjects in general order of (i) civil cases, (ii) criminal cases, and (iii) personal status cases.

"3. The most that they<sup>22</sup> can envisage in the near future is (i) civil cases and that there should be no general transfer of criminal jurisdiction until experience gained of administration of civil jurisdiction demonstrates that criminal cases can also be safely transferred.

"4. The civil jurisdiction to be transferred must be limited to those classes of cases in regard to which codes have been promulgated and actually put into operation.

"5. Jurisdiction in transferred cases can only be entrusted to such modern courts as are efficiently organized and adequately staffed.

"6. The extent of transferred jurisdiction might thus be widened as and when the new codes are promulgated and enforced and the number of suitable modern courts is increased. In the meantime, however, His Majesty's Government are prepared to repeat the offer made by them in January 1927 that Chinese law should be progressively applied in British courts in China.

"7. Adequate safeguards in administration of justice must be furnished with special reference to (a) protection against administrative interference with courts by military and other non-judicial authority; (b) protection against unreasonable and irregular taxation, against oppressive methods of assessing or levying taxes and against all exactions enforced by the executive authority without due process of law; (c) protection against interference with liberty of subject and against domiciliary visits and vexatious inspection of premises, factories, etc., and against arbitrary interference with shipping. These safeguards should, in the view of His Majesty's Government, take the form, *inter alia*, of judges of foreign nationality employed by Chinese Government in Chinese courts to which jurisdiction over British subjects may be progressively transferred; of right of foreign litigants to be represented by foreign lawyers of their own choice, and by some system of evocation.

"8. Suits between British subjects would continue for the present to be heard in British courts.

"9. His Majesty's Government consider it desirable that arbitral awards in cases between British subjects and other foreigners and Chinese should be recognized and enforced by Chinese courts."

<sup>22</sup> Marginal notation: "i. e. His Majesty's Government in the United Kingdom."

Dr. Wang-Pu made the following comments indicating points of divergence from the Chinese point of view:

He observed that even in regard to civil cases His Majesty's Government appeared to contemplate only limited and conditional transfer of jurisdiction and on being referred to paragraph 4 he said that promulgation of all codes excepting those relating to personal status was practically completed. He enquired what was meant by the words "satisfactory to both Governments" and did not seriously demur when Sir M. Lampson said that we would of course have to examine the codes.

Referring to paragraph 8, Dr. Wang-Pu expressed disappointment at the British reservation of cases between British subjects for British courts *in China*; the Chinese Government aimed at abolition of all foreign courts on Chinese soil.

Referring to paragraph 7 he said that any system of foreign co-judges would be difficult for the Chinese Government to accept. When Sir M. Lampson explained that this was the cardinal point in the British plan in connection with safeguards he said that without committing his legal colleagues or his Government, he would like to enquire whether, if China agreed to the employment of foreign co-judges, His Majesty's Government would agree to surrender criminal jurisdiction. Sir M. Lampson said that he had no authority to discuss such a suggestion beyond possibly going part of the way to meet them by surrendering certain classes of minor criminal cases such, for instance, as those relating to gambling and gaming. He urged strongly the advantages of the co-judge plan, but Dr. Wang-Pu insisted that China could not consider it *except in return for surrender of criminal jurisdiction*.

The next point Dr. Wang-Pu took up was that of His Majesty's Government's desire for abolition by gradual and evolutionary process as opposed to China's demand for immediate abolition. This he explained was clearly a question of dates. China could never accept so indefinite an arrangement as that envisaged in the third paragraph under which any transfer of criminal jurisdiction might be indefinitely delayed. Sir M. Lampson argued at length that the system must prove itself, that the degree and efficiency of the safeguards introduced must rule the rate of progress and that British fears must first be proved by actual experience to be groundless. Dr. Wang-Pu insisted that there must be fixed dates for the various stages, including (as Sir M. Lampson had introduced the point), say, rights of evocation in criminal cases for a certain number of years. China was prepared to consider a worse arrangement than Turkey secured but could not possibly accept worse terms than Siam. He suggested, in illustration of his theory of dates, the transfer of civil jurisdiction on July 1st and criminal jurisdiction on January 1st next. Sir M. Lampson refused to follow him on to this ground.

Reverting to foreign co-judges and foreign counsellors Dr. Wang-Pu said in reply to Sir M. Lampson's enquiry that if His Majesty's Government could not see their way to considering the former *plus* transfer of criminal jurisdiction, there remained the Chinese plan for employment of the latter, who he explained in reply to Sir M. Lampson's further enquiry, would be selected from the best foreign jurists available and added (when pressed) that they might very likely be chosen with the assistance of the Hague Court and engaged on a contract basis for two years or whatever time limit might be fixed. He suggested foreigners should be satisfied with men of the calibre of Judge Feetham.<sup>93</sup>

Discussing the question of safeguards with special reference to taxation, he expressed his agreement with the desiderata of His Majesty's Government as formulated in paragraph 7, which he said were as necessary for China as for the foreigner. Sir M. Lampson explained British fears in regard to enforcement of arbitrary and unreasonable taxation by local courts if the protection of extraterritoriality were withdrawn and Dr. Wang-Pu said that he felt sure that the point could be covered by special clauses limiting taxation to that levied under national enactments by the due process of law. Sir M. Lampson said that His Majesty's Government should require very specific safeguards in this respect, including provision against unfair assessment in case of levies such as municipal taxes and should want to examine the laws under which particular taxes would be enforced.

At the conclusion of the interview Sir M. Lampson enquired whether he was to take Dr. Wang-Pu's observations as considered comments on the British plan. Dr. Wang-Pu replied in the affirmative and referred especially to the "hypothetical question" he had put as to whether, if China agreed to employ foreign co-judges, His Majesty's Government would surrender criminal as well as civil cases.

Before this interview on February 3rd His Majesty's Minister gave to the United States Minister a copy of His Majesty's Government's plan. Mr. Johnson informed Sir M. Lampson that the Government of the United States were submitting a communication through the Chinese Minister at Washington embodying the principle of foreign legal counsellors, and *not* co-judges. Sir M. Lampson expressed to Mr. Johnson the fear that His Majesty's Government might find the ground cut from under their feet on this point.

WASHINGTON, March 4, 1930.

<sup>93</sup> Mr. Justice Richard Feetham, of the Union of South Africa, invited by the Shanghai International Settlement's Municipal Council to report on future policy for the Settlement.

711.933/269

*The Acting Secretary of State to the Ambassador in Great Britain  
(Dawes)*

No. 281

WASHINGTON, March 5, 1930.

SIR: Referring to the Department's instruction No. 244, of January 29, 1930,<sup>94</sup> and to previous correspondence, there is enclosed, for the information of the Ambassador, a copy of a memorandum of a conversation between the Chief of the Division of Far Eastern Affairs and the Chinese Minister on February 13, 1930,<sup>95</sup> in reference to the Chinese Government's proposal for the abolition of extraterritoriality.

It is believed that the Embassy will find this memorandum of interest in connection with recent telegraphic correspondence between the Department and the Embassy in relation to inquiries made by the British Foreign Office with regard to the position of the American Government. It will be observed that in the conversation of which this memorandum was a record, as in previous conversations of officers of the Department with the Chinese Minister, the endeavor was made to make it clear to the Minister that it cannot be expected that the American Government will enter into an agreement with the Chinese Government which would in effect place American nationals and interests in a less favored position in China than is accorded by China to the nationals and interests of any other country.

Referring particularly to the paragraphs of pages 4 and 5 of this memorandum in which mention is made of the query whether it would not be advantageous "if China could arrange to have a conference whereby all of the negotiating could be done at the same place and at the same time", it should be understood that this query was made not with a view to suggesting that a conference as such would be the best procedure, but with a view to causing the Minister to realize that the subject under discussion between him and the Department is regarded by the Department as one in connection with which the interests of the United States, and therefore the objectives, are not dissimilar to or independent of the interests of the other foreign Powers which have negotiated with China or which are negotiating with China. Also, it was intended in this connection that the Minister be made to realize that the inconveniences and delays attendant upon the present negotiations between China and the United States are due in part to the fact that these negotiations are being conducted in Washington, on the initiative and at the request of the Chinese Government, rather than in China.

I am [etc.]

For the Acting Secretary of State:

FRANCIS WHITE

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<sup>94</sup> Not printed.<sup>95</sup> *Ante*, p. 377.

793.003/302 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

[Paraphrase]

SHANGHAI, March 6, 1930—5 p. m.

[Received March 6—9:10 a. m.]

Minister Johnson replies as follows to your 75, February 25, 7 p. m.:

(1) The British Minister returned to Peiping one or two days after my departure for Nanking. Now it is understood he will leave Peiping about March 17 to return to Nanking where I expect to discuss with him the question of cooperation.

(2) Referring to your last paragraph, points (a) and (b):

(a) In the present political situation I can see nothing to require haste in these negotiations. The Chinese Government faces a military crisis which apparently General Chiang Kai-shek intends forcing this spring. The Government will have to go if he is defeated. Now it is not possible to foresee the outcome. In money and morale the Government has the advantage, while the opposition, lacking money and leaders, is basing its hope of success on increasing discontent in the North and the Northwest and on possible cooperation with ex-communicated party elements led by Wang Ching-wei. The time during which these events are transpiring may, it seems to me, well be utilized to reach an understanding with the British regarding our various proposals.

(b) To me the difficulty seems to lie in the fact that we, for our part, beginning with the proposal handed the Chinese Minister at Washington on December 21,<sup>96</sup> have attempted reducing to the form of a concrete proposal ideas which, with the British, have not yet gone beyond the stage of statements as principles for discussion. As to the principles involved, there is, as I understand it, no disagreement with the British. The question is whether we are able to get together in regard to reducing those principles to the form of a proposal which both countries can support. The proposals must be worked out in Washington and London where there exist the means and materials of study. In my opinion, no good purpose will be served by the transfer of negotiations from Washington to Nanking until and unless the Department's interpretation of cooperation means agreement with the British on the nature of the concrete proposals to be put forward simultaneously but individually. It appears to me that agreement regarding the nature of a proposal or proposals should be sought between the British and American Governments either in

<sup>96</sup> *Foreign Relations*, 1929, vol. II, p. 657.



London or in Washington. This having been accomplished, it matters little if the proposal be submitted in Washington or in Nanking to the Chinese.

CUNNINGHAM

793.003/308

*The French Ambassador (Claudiel) to the Acting Secretary of State*

[Translation <sup>88</sup>]

WASHINGTON, March 7, 1930.

#### NOTE

Under date of February 6, the Embassy of Japan at Paris transmitted a note to the Ministry for Foreign Affairs which was also transmitted to the British and American Governments. That note sets forth the viewpoint of the Japanese Government on the question of extraterritoriality in China.

The Japanese Embassy at Paris informed the Ministry for Foreign Affairs that the document in question had been drawn up after a minute inquiry engaged in for several months by the various competent Japanese administrations and persons and that it constitutes the carefully drafted exposition of the viewpoint of the Japanese Government in a question so important for its interests.

A study of the Japanese note suggests certain comments to the French Ministry for Foreign Affairs of which the Embassy of France at Washington believes it useful to inform the Department of State:

The Japanese Government, agreeing with the French Government on the impossibility of proceeding to an immediate, complete and unconditional relinquishment of extraterritoriality, declares, as the French Government itself has declared, that it is ready to proceed, through negotiations, to the gradual suppression of these privileges under the indispensable conditions and guarantees which it is determined to demand of the Chinese Government.

Conformably to the suggestion of the British Government which had been expressed to the French Government by a note from the British Embassy at Paris dated November 15, 1929, the Japanese Government declares itself in favor of the gradual method of relinquishment by categories of jurisdiction; but, like the French Government, it does not believe it possible entirely to abandon the gradual method of relinquishment by geographical zones, such as is proposed by other countries. Thus, the Japanese Government is led to combine the two systems, a combination proposed on November 25, 1929, to the British Government by the French Government; for this

<sup>88</sup> File translation revised.

reason, the Japanese Government considers that, when the time comes, there would be occasion first to accept Chinese jurisdiction for civil causes, then for criminal causes, it being understood that such reform would not immediately apply to certain territories. The latter would be subject thereto only at the last, after the experiment might have been made on other points as to the efficacy and impartiality of Chinese jurisdiction.

The territories to which the Japanese Government alludes are very probably the territories of concessions as well as the territories of the enterprise of the Chinese Eastern [*South Manchuria*] Railway where Japanese interests are too great and Japanese nationals too numerous for the Japanese Government to consent to the first experiment in the relinquishment of the guarantees of extraterritoriality being made there. Leased territories, such as Dalny<sup>99</sup> and Kwangchow-wan, naturally do not come within the geographical categories contemplated above, the Japanese Government justly considering that leased territories could not be affected by a relinquishment of extraterritoriality; their situation might, if occasion arises, be regulated only by special agreements having no connection with the problem of the privileges of jurisdiction.

The French Government understands perfectly the desire of the Japanese Government to protect, so far as possible, certain restricted territories where its interests are important and its nationals numerous from experiments which might be unfortunate. The anxieties of the French Government in this respect are the same, and it would like not to have Chinese jurisdiction applied to the concessions and to railway enterprises until after a reasonable period allowing the modern Chinese courts to prove their efficacy and impartiality.

The French Government notes that the Japanese Government makes the suppression of extraterritoriality dependent on the pledge by the Chinese Government of foreign judges, the latter being capacitated to take part in proceedings and decisions of justice.

It further notes that the Japanese Government, like the French Government, attaches particular importance to the question of the complete opening of China. In the note addressed August 10, 1929, by the Minister of France at Peking to the Minister for Foreign Affairs of China, it is said:

"Taking into consideration the facts pointed out by the said Commission, the French Government considers that, in order to achieve conditions favorable to the relinquishment of the rights of extraterritoriality which its nationals enjoy by virtue of the treaty of 1858, it is indispensable that the Chinese Government actually proceed to the reform of its laws, of its judicial institutions and its man-

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<sup>99</sup> Dairen.

ner of administrating justice, in conformity with the recommendations of the Commission, recommendations to which the Chinese Delegate gave his approval. It is when these reforms shall have been put into practice, that the right of residence and of owning real property and of engaging in commerce in the whole of China, the obligatory counterpart of the relinquishment of extraterritoriality, may constitute for French nationals an actual advantage equivalent to that which Chinese enjoy in France."

This point of view is shared by the Japanese Government, since it believes that the opening of China should be effected in two stages, one after the relinquishment of extraterritoriality in civil matters which should have as its counterpart permission to foreigners to reside and traffic in the whole country; the other after the relinquishment of extraterritoriality in criminal matters, which should entail, on the basis of reciprocity, the right to real property.

In informing the Department of State of the way in which the French Ministry for Foreign Affairs interprets the note of the Japanese Government, the Embassy of France in the United States would be grateful to the Department of State if it would be so good as to give the Embassy its opinion on the question. If possible, the Embassy would also be glad to know the present status of the negotiations being conducted between the United States and China on the question of extraterritoriality.

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793.003/330

*The Chief of the Division of Far Eastern Affairs (Hornbeck) to the British Chargé (Campbell)*<sup>1</sup>

Referring to Mr. Campbell's letter of March 4, sentence which reads as follows:

"By this time however the presentation of the State Department's outline of possible provisions of agreement to the Chinese Minister on January 23rd, without any previous warning which might have enabled His Majesty's Government in the United Kingdom to make any necessary adjustments in their policy, had, in His Majesty's Government's view, led to its being impossible to negotiate with any prospect of success for the safeguards abandoned in the outline, and indeed attempts to secure such safeguards may now merely give rise to friction and to agitation directed against the power concerned."

I desire to comment as follows:

(1) In my opinion the British Government attributes to the matter of January 23rd a character which that matter does not possess.

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<sup>1</sup>Notation on margin by the Chief of the Division of Far Eastern Affairs, dated March 10, 1930: "Shown to and read by Mr. Campbell."

and is unduly apprehensive with regard to its effect upon the situation.

(2) The materials given by me to the Chinese Minister on January 23rd were not "the State Department's outline of possible provisions of agreement"; they were an outline of a plan submitted for purposes of study given by Mr. Hornbeck to Dr. Wu at a certain stage in conversations between these two persons, which conversations have covered and are dealing with a wide range of factors and possibilities, they did not and do not constitute a proposal or involve a commitment; and they were and are materials, not a completed outline of possible proposals.

(3) With regard to the question of "previous warning" to the British Government,—neither in connection with the matter of January 23rd nor at any other stage in the conversations between myself and the Chinese Minister has there transpired anything concerning which "warning" needed to be given. The American Government has not abandoned the policy indicated in its communications to the Chinese Government of August 10 and November 1.<sup>2</sup> With regard to steps taken, the effort has been made at all times promptly to inform the British Government of important developments.

(4) With regard to "safeguards abandoned in the outline" it should be noted that in the various paragraphs of the materials in question no small number of safeguards are included; and, further, that it is not to be inferred that there is in the minds of the drafters of these materials nothing further or other than the provisions which appear in this particular document.

(5) With regard to the question of securing safeguards, it is believed that the Chinese Minister understands very well that the Chinese Government can scarcely expect to conclude with any of the major powers a treaty by the provisions of which extraterritorial rights will be given up immediately or unconditionally; and that the Chinese Minister understands that any proposal which may be made as such by Mr. Hornbeck will include a substantial body of safeguarding provisions.

[File copy not signed]

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<sup>2</sup> See telegram No. 254, August 1, 1929, to the Minister in China and telegram No. 958, November 4, 1929, from the Minister in China, *Foreign Relations*, 1929, vol. II, pp. 596 and 616.

793.003/293

*The Chief of the Division of Far Eastern Affairs (Hornbeck) to the  
British Chargé (Campbell)*

WASHINGTON, March 17, 1930.

DEAR MR. CAMPBELL: Under date February 21, 1930, the American Embassy at London telegraphed the Department that the British Foreign Office had expressed a desire to be informed with regard to the attitude of the American Government on the subject of endeavoring, in dealing with the question of extraterritorial jurisdiction in China, to retain criminal jurisdiction and/or to provide for the employment by China of foreign co-judges.

In a recent conversation, you mentioned this same matter to me.

I am happy to be able to inform you, as per the memorandum hereto attached, with regard to the views of the Department. The text of this memorandum is being telegraphed to the American Embassy at London and to the American Legation at Peiping, with authorization to communicate it to the British Foreign Office and to the British Minister to China.

Yours sincerely,

STANLEY K. HORNBECK

[Annex]

*The Department of State to the British Embassy*

[WASHINGTON,] March 17, 1930.

In reply to the inquiry of the British Foreign Office with regard to the views of the Department on the subject of endeavoring, in dealing with the question of extraterritorial jurisdiction in China, to retain criminal jurisdiction and/or to provide for the employment by China of foreign co-judges, the Department states:

It is the opinion of the Department that it would be desirable, if possible, to have provision for both of these features. As between the two, the Department regards provision for the employment of foreign co-judges as the more to be desired. At the same time, the Department believes that the Chinese will resist proposal of co-judges more than proposal that criminal jurisdiction be retained. The Department is willing, in course of its negotiations, to propose to the Chinese both features and to stress desirability of having co-judges. The Department finds it impossible, however, to say in advance which point it would be ready to abandon first, as this would depend on (a) other features of any plan or plans proposed and (b) the Chinese reaction thereto and (c) the situation which may develop while discussion proceeds. Department will expect to keep Foreign Office informed of any modification or development in connection with this expression of views.

793.003/293

*The Department of State to the British Embassy*

Referring to the British *Aide-Memoire* of March 4 covered by Mr. Campbell's letter to Mr. Hornbeck of March 4.

In the last paragraph of the *Aide-Memoire* there occurs the statement "Mr. Johnson informed Sir M. Lampson that the Government of the United States were submitting a communication through the Chinese Minister at Washington embodying the principle of foreign legal counselors and not *co-judges*". If Mr. Johnson informed Sir M. Lampson "that the Government of the United States were submitting a communication through the Chinese Minister at Washington", Mr. Johnson was in error. It cannot too insistently be pointed out that "the Government of the United States" did not "submit" any "communication": the transaction in question consisted of the informal submission by Mr. Hornbeck of a memorandum to Dr. Wu.

[WASHINGTON,] March 17, 1930.

793.003/324

*Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the British Chargé (Campbell)*

[WASHINGTON,] March 17, 1930.

After the discussion of the question of criminal jurisdiction and co-judges, accounted for in a separate memorandum of even date, Mr. Hornbeck said that the Department had been giving a good deal of thought to the question of the port of Shanghai and that he would like to inform Mr. Campbell of the Department's views. He then read to Mr. Campbell the statement of which a copy is hereto attached and gave Mr. Campbell a copy thereof.

Mr. Campbell read to Mr. Hornbeck excerpts from a number of memoranda which apparently had been supplied to the British Embassy by the British Foreign Office from which it appeared that the Foreign Office was giving a good deal of consideration to various arguments with regard to the line of action to be taken with reference to the problem of Shanghai. Mr. Campbell said that he hoped to give the Department memoranda on this subject.

[Annex]

*The Department of State to the British Embassy*

Referring to the question of dealing with the problem of extraterritoriality by application of the principle of geographical regions,—

The Department of State inclines to the view that the treatment of

the problem of the International Settlement (or the whole port) at Shanghai as a question separate and distinct from the general question of extraterritorial jurisdiction would *not* constitute an application of the principle of geographical regions.

The Department also inclines at this stage to the view that it would be well to make the distinction indicated, treating Shanghai as a self-contained problem.

[WASHINGTON,] March 17, 1930.

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793.003/308

*The Department of State to the French Embassy*

MEMORANDUM

The Department has read with care the statement addressed to the Acting Secretary of State<sup>3</sup> and handed by the First Secretary of the French Embassy to the Assistant Chief of the Division of Far Eastern Affairs on March 8, in which are given certain comments made by the French Ministry of Foreign Affairs to the Embassy of France at Washington regarding a note, dated February 6, from the Japanese Embassy in Paris to the French Ministry of Foreign Affairs setting forth the position of the Japanese Government on the question of the relinquishment of extraterritoriality in China.

It is noted that the comments of the French Ministry of Foreign Affairs to the French Embassy at Washington include the following: that the French Government is in agreement with the Japanese Government as to the impossibility of proceeding to an immediate, complete and unconditional relinquishment of extraterritoriality and has declared that "it is ready to proceed, through negotiations, to the gradual suppression of these privileges under the indispensable conditions and guarantees which it is determined to demand of the Chinese Government"; that the French Government, like the Japanese Government, declares itself in favor of the gradual method of relinquishment by categories and jurisdiction, but, "does not believe it possible entirely to abandon the gradual method of relinquishment by geographical zones, such as is proposed by other countries"; that the Japanese Government is led to combine the two systems, a combination proposed on November 25, 1929, to the British Government by the French Government; that "for this reason, the Japanese Government considers that, when the time comes, there would be occasion first to accept Chinese jurisdiction for civil causes, and later for criminal causes, it being understood that such reform would not

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<sup>3</sup> See note of March 7, from the French Ambassador p. 404.

immediately apply to certain territories". In this respect, the French Government comments that "Leased territories, such as Dalny and Kwangchow-wan (Kouang-Tcheou-Wan) naturally do not come within the geographical categories contemplated above," and that the situation of such leased territories "might, if occasion arises, be regulated only by special agreements having no connection with the problem of the privileges of jurisdiction". The French Government states that its anxieties are the same as those of the Japanese Government in respect to "certain restricted territories where its interests are important and its nationals numerous" and that the French Government "would not like to have Chinese jurisdiction applied to the concessions and to railway enterprises until after a reasonable period allowing the modern courts to prove their efficacy and impartiality".

It is further noted that the French Government, like the Japanese Government, attaches particular importance to the question of the complete opening of China, and that the French Government believes that such opening should be effected in two stages, "one after the relinquishment of extraterritoriality in civil matters which should have as its counterpart permission to foreigners to reside and traffic in the whole country; the other after the relinquishment of extraterritoriality in criminal matters, which should entail, on the basis of reciprocity, the right to real property".

In response to the request contained in the final paragraph of the French Embassy's memorandum of March 7, 1930, there are attached hereunder certain papers setting forth views of the American Government and recent developments in connection with the study by the Department of State of possible plans for the relinquishment of extraterritorial jurisdiction in China.\*

In reference to the material for study submitted to Dr. Wu on January 23, the suggestion was made to Dr. Wu later, on February 26, that this material be set aside and that attention would be given during the next few weeks to the drafting of a new outline of materials for study which would be submitted at a later date.

The Department has recently been asked by the British Foreign Office for an expression of the Department's views on the subject of endeavoring, in dealing with the question of extraterritorial jurisdiction, to retain criminal jurisdiction or to provide for the employment by China of foreign co-judges. In reply the Department has expressed the opinion that it would be desirable, if possible, to have

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\*Enclosures were copies of the statement read to the Chinese Minister on December 28, 1929; the statement of January 4, 1930, recording views of the American Government regarding mandate issued by Chinese Government on December 28 and public statement made by Chinese Minister for Foreign Affairs on December 30; and memorandum with attached copy of material for study submitted to Chinese Minister on January 23.



provision for both of these features; that as between the two, it regards provision for the employment of foreign co-judges as the more to be desired; but that, at the same time, it believes that the Chinese will resist proposal for co-judges more than proposal that criminal jurisdiction be retained.

It should be understood that the American Government is not yet committed to any particular plan but is considering, by means of discussions between officers of the Department and the Chinese Minister, various plans and possibilities.

WASHINGTON, March 18, 1930.

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793.003/325 : Telegram

*The Minister in China (Johnson) to the Acting Secretary of State*

[Paraphrase]

PEIPING, March 22, 1930—3 p. m.

[Received March 22—7:47 a. m.]

213. Reference Department's 97, March 18, 11 a. m.,<sup>5</sup> and previous telegrams. On March 20 I had a long conversation with Sir Miles Lampson and read to him the above-mentioned telegram. The British Minister said this relieved his mind since it indicated our willingness to cooperate as regards co-judges and criminal jurisdiction. I informed Sir Miles also of the contents of my telegram from Shanghai, March 6, 5 p. m., to the Department. I find that he feels the need of having some concrete proposal which may serve as a basis for negotiations when he resumes discussion with the Chinese Minister for Foreign Affairs and that he has worked out in draft form such concrete proposals, forwarding them to his Government by telegraph for consideration while he is awaiting instructions at Peiping. The Minister read me this draft, a rather long document consisting of 16 articles, a mosaic of their proposals, the January 23 American draft of study materials for the Chinese Minister at Washington, Chinese proposals, and precedents from the Persian,<sup>6</sup> Turkish,<sup>7</sup> and Siamese<sup>8</sup> treaties. Then I told Sir Miles that I thought this material furnished a basis for a possible concrete proposal to be worked out here by him and myself and offered to our respective Governments, and also possibly to Japan, for their possible acceptance as a common basis for

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<sup>5</sup> Not printed; it quoted Department's memorandum of March 17 to the British Embassy, p. 408.

<sup>6</sup> See The Persia Order in Council, 1928, London, May 7, 1928, *British and Foreign State Papers*, 1928, pt. I, vol. CXXVIII, p. 49; also notice of May 11, 1928, *ibid.*, p. 52.

<sup>7</sup> Convention signed at Lausanne, July 24, 1923; League of Nations Treaty Series, vol. XXVIII, p. 151.

<sup>8</sup> Treaty and notes signed at Bangkok, March 10, 1909, and *procès-verbal* of July 6; *British and Foreign State Papers*, vol. CII, pp. 128 and 799.

Chinese discussion. The American Counselor, Perkins, and the British Legation's Chinese Secretary, Teichman, now are engaged on the draft, and we hope shortly to be able to submit it.

JOHNSON

793.003/330

*The Chief of the Division of Far Eastern Affairs (Hornbeck) to the British Chargé (Campbell)*

WASHINGTON, March 22, 1930.

MY DEAR MR. CAMPBELL: I acknowledge the receipt of your confidential letter of March 4 and the confidential *aide-mémoire* of the same date enclosed therewith.

It has been proved very helpful to us to have the information given in these communications.

If I may be permitted to comment, I should like to repeat what I have on several occasions said to you, that the Department desires that, in the handling of this question, there be cordial cooperation among the governments concerned, with frank exchanges of views and information as it is our belief that this will best facilitate the attainment of the common objective sought. We have felt that the British Foreign Office attributed to the paper given by me to the Chinese Minister on January 23 more importance than that paper possessed and that the Foreign Office was unduly apprehensive with regard to the effect of the conversations between the Chinese Minister and myself upon the situation. That paper could not properly be described as the State Department's outline of a possible agreement. The American Government has not abandoned the policy indicated in its communications to the Chinese Government of August 10 and November 1. The American Government does not expect to make an agreement in which extraterritorial rights will be given up immediately, unconditionally and without safeguards. It is our belief that the Chinese Minister well understands our point of view in regard to these and related matters.

May I request that you convey to the Foreign Office an expression of our appreciation of the information given in the *aide-mémoire* under acknowledgement. From the statements made therein, it is my understanding that the discussions between Sir M. Lampson and the Chinese Minister for Foreign Affairs began on January 9; that the Minister for Foreign Affairs gave an outline of the Chinese Government's ideas, and that Sir M. Lampson in reply gave an outline of the ideas of the Foreign Office; that Dr. Wang talked of special courts and foreign advisers; that Sir M. Lampson talked of foreign judges and the retention of criminal jurisdiction; that on January 10 Dr. Wang supplied Sir M. Lampson with a written copy of a "Chinese

plan" (of which you have been so good as to give us a text); that this was similar to an outline which had been communicated to His Majesty's Government in London on November 25, but with certain changes; that Sir M. Lampson stated that he could not contemplate surrender of criminal jurisdiction and repeated an expression of His Majesty's Government's desire that there be foreign judges; that on January 9 the Foreign Office had sent to Sir M. Lampson an instruction on the subject of the manner in which the subject of taxation might be treated; that on February 3 Sir M. Lampson communicated to Dr. Wang the text of an outline of His Majesty's Government's plan (of which you have been so good as to give us a copy); that this provided for (1) abolition of extraterritoriality by a gradual and evolutionary process, with safeguards, (2) transfer of jurisdiction by subjects in general order of civil cases, criminal cases, and personal status cases, (3) transfer in the near future of civil cases only, (4) restriction to those classes with regard to which codes have been formulated and actually put into operation, (5) transfer only to such modern courts as are efficiently organized and staffed, (6) further transfer as and when the new codes are promulgated and enforced and the number of suitable modern courts increased, with progressive application of Chinese law in British courts in China, (7) adequate safeguards with special reference to protection against interference by military and nonjudicial authority and against unreasonable and irregular taxation and against oppressive methods of assessing or levying taxes and against exactions enforced without due process of law and against interference with liberty of subject and domiciliary visits and vexatious inspections and against arbitrary interference with shipping, and that there should be judges of foreign nationality in Chinese courts to which jurisdiction over British subjects may be progressively transferred, and that foreign litigants should have the right to be represented by foreign lawyers, and that there should be some system of evocation, (8) suits between British subjects should continue for the present to be heard in British courts, and (9) arbitral awards in cases between British subjects and other foreigners and Chinese should be recognized and enforced by Chinese courts. We note that Dr. Wang stated that promulgation of all codes excepting those relating to personal status was practically completed and that he did not seriously demur when Sir M. Lampson said that British authorities would of course have to examine the codes; that Dr. Wang said that the Chinese Government aimed at abolition of all foreign courts on Chinese soil; that Dr. Wang said that any system of foreign co-judges would be difficult for the Chinese to accept and that he inquired whether, if China agreed to the em-

ployment of foreign co-judges, His Majesty's Government would agree to surrender criminal jurisdiction; that Sir M. Lampson urged strongly the advantages of the co-judge plan, and that Dr. Wang insisted that China could not consider it except in return for the surrender of criminal jurisdiction. We note the discussion of the subject of dates and that when Dr. Wang suggested the transfer of civil jurisdiction on July 1 (1930) and criminal jurisdiction on January 1 next (1931) Sir M. Lampson refused to follow him. We note the further discussion of the question of foreign co-judges and foreign counselors. We note that Dr. Wang expressed his agreement with the desiderata of His Majesty's Government as formulated in the paragraph (7) dealing with the subject of safeguards, and Dr. Wang's admission that this was as necessary for China as for the foreigner, and Dr. Wang's affirmation that he felt that there might be special clauses limiting taxation to that levied under national enactment by due process of law. We note the return to the question of off-setting employment of foreign co-judges against surrender of criminal jurisdiction. We note the statement that before his interview with Dr. Wang on February 3 Sir M. Lampson had given to the American Minister a copy of His Majesty's Government's plan, and the statement that Mr. Johnson informed Sir M. Lampson that "the Government of the United States were submitting a communication through the Chinese Minister at Washington" embodying the principle of foreign legal counselors (Note: you of course realise that the "Government of the United States" was not "submitting a communication"), and we note that Sir M. Lampson expressed to Mr. Johnson the fear that His Majesty's Government might find the ground cut from under their feet on this point.

It is my understanding now that through you and through the American Embassy in London, the British Foreign Office has since been more correctly informed as to the nature of the materials for study informally given by me to the Chinese Minister on January 23. The American Minister to China has also been informed, and he has been in communication with Sir M. Lampson. I think it may be assumed that the British Foreign Office and Sir M. Lampson now understand the American Government's position.

In continuing its study of the matter of extraterritoriality in China, the Department has given and will continue to give careful consideration to the views and the information which, on behalf of your Government, you have been so good as to communicate.

Yours sincerely,

STANLEY K. HORNBECK

793.003/331

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*

[WASHINGTON,] March 24, 1930.

The Netherland Minister called and referred to a brief conversation which had been held between himself and Mr. Hornbeck on March 22. Mr. Hornbeck stated that the Department had now received from the American Minister at The Hague a despatch in which it was stated that the Minister had been talking with officials of the Foreign Office on the subject of extraterritoriality and that those officials had expressed the hope that they might be informed of any further negotiations or *pourparlers* on this subject that take place in Washington and also the hope that the American Minister in Peiping may keep the Netherland representative at that post advised. The Minister had also reported that these officials did not advocate collective action but believed that a mutual knowledge of the status of negotiations would prove helpful to all. Mr. Hornbeck commented that the views thus expressed at the Netherland Foreign Office apparently coincided with the views held in the Department. The Netherland Minister stated that he believed such was the case and he found it gratifying.

Mr. Hornbeck then gave the Minister an unaddressed and unsigned memorandum of which a copy is attached hereto. There followed a discussion of the question of retention of criminal jurisdiction and/or provisions for foreign co-judges. Mr. Hornbeck explained that the view expressed on behalf of the Department had been arrived at in consequence of consideration given to a definite inquiry made by the British Foreign Office.

The Minister said that he greatly appreciated being given this further information with regard to the present status of the matter.

S[TANLEY] K. H[ORNBECK]

[Annex]

*The Department of State to the Netherlands Legation.\**

All previously submitted materials for study which have been under discussion between officers of the Department and the Chinese Minister are set aside, and officers of the Department are working on a draft of a new set of materials for study.

The Department takes the view that it would be desirable both to retain the right of criminal jurisdiction and to have provision for foreign co-judges to sit with Chinese judges on Chinese modern

\* The same memorandum was handed to the Italian Counselor of Embassy on March 26.

courts in cases where extraterritorial foreigners are involved; but that the Chinese will probably resist co-judges more than retention of criminal jurisdiction; and that it is impossible as yet to say which idea might the more readily be surrendered.

The American Minister to China is studying the situation and working on an outline of a possible plan.

MARCH 24, 1930.

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793.003/325 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

[Paraphrase]

WASHINGTON, March 27, 1930—7 p. m.

113. (1) The Department is gratified that the British Minister and you are collaborating, and, with your knowledge concerning the general attitude of the British and American Governments regarding the fundamental desiderata involved, the Department trusts that you may be able to prepare a workable and safe scheme for the gradual abolition of extraterritoriality for submission to Washington and London. It is desired by the Department that, when a tentative project has been produced by you, a synopsis thereof be submitted by radio and a complete copy be sent by the first pouch.

(2) The Department is continuing to work on a draft of new materials for study, but expects not to have further conversation with the Chinese Minister pending receipt and consideration of the synopsis of your project. The Chinese Minister is still at The Hague. The British Minister, it is suggested, may care to submit as soon as possible to his Government your joint tentative project so that it may serve as a discussion basis, thus allowing the British Foreign Office and the Department to harmonize as far as possible whatever is discussed by them separately with the respective Chinese representatives. Of course, it is understood that any suggestion by collaboration which you and the British Minister submit will be purely tentative and will not involve any commitments.

(3) As you know, it is believed by the Department that one of the factors to be kept constantly in mind is to avoid action likely to encourage the Chinese Government to take unilateral action. The Department consequently desires the fact that you are conferring and collaborating with the British Minister not to be permitted to give rise to an impression of the forming of a bloc for identical or united action by the American and another or other governments.

(4) The hope has been expressed by the Netherland Foreign Office that the Department will keep it informed concerning extraterritori-

ality developments and that you will keep the Netherland Minister in China informed. In conversations here with the Netherland Minister and the Italian Counselor of Embassy, the Department has expressed its views as to criminal jurisdiction and co-judges as was expressed to the British Embassy on March 17<sup>9a</sup> and communicated in No. 97, March 18, 11 a. m.,<sup>10</sup> to you. You are authorized, while keeping in mind the reservation as suggested above in paragraph (3), to exchange views and information with your interested colleagues.

COTTON

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793.003/332 : Telegram

*The Minister in China (Johnson) to the Acting Secretary of State*

PEIPING, March 28, 1930—9 a. m.

[Received March 29—12:50 p. m.<sup>11</sup>]

226. 1. My 213, March 22, 3 p. m. Following in paragraph 3 is complete text of draft which British Minister and I have drawn up to submit to our respective Governments for use in discussions between Washington and London with a view to finding a draft concrete proposal on the subject of extraterritoriality which might be simultaneously though individually laid before the Chinese by the two Governments.

2. British Minister and I propose on Monday<sup>12</sup> to inform French Minister of the result of our consultations and later to inform other interested Ministers.

3. [Draft agreement:]

"The United States Government having declared their willingness that January 1, 1930, should be regarded as the date upon which the process of Government [*gradual?*] abolition of the extraterritorial rights of American citizens in China shall in principle have commenced, the Chinese Government will, with a view to enabling American citizens during the period of transition to familiarize themselves with Chinese laws and judicial procedure, immediately communicate to the United States Government all Chinese codes actually promulgated and enforced, together with authorized translations thereof.

The following agreement for the transfer of jurisdiction over American citizens in China from the United States to the Chinese Courts shall come into effect upon the exchange of ratifications which shall take place one year after the Chinese Government shall have promulgated and actually put into operation all the principal Chinese codes in conformity with modern concepts of jurisprudence and communicated them, together with authorized translations thereof, to the American Legation in China including the civil, commercial, criminal, and other primary codes.

<sup>9a</sup> Memorandum, p. 408.

<sup>10</sup> Not printed.

<sup>11</sup> Telegram in twenty-one sections.

<sup>12</sup> April 1.

In the meantime the United States Government will forthwith take steps to apply as far as practicable in the United States Courts in China all such Chinese laws, ordinances and regulations as shall have been promulgated and enforced and communicated with translations to the American Legation in China.

**ARTICLE 1. Transfer of jurisdiction.**

Except as otherwise provided by this agreement, American citizens in China will as from the date of the exchange of ratifications of this agreement be subject to the jurisdiction of the modern Chinese law courts with rights of appeal and in accordance with the modern codes of law and procedure. They shall not, however, be subject to the jurisdiction of the police courts, except in the case of minor offenses not punishable by detention or imprisonment or fines exceeding \$10, nor to the jurisdiction of the magistrates courts, nor to that of military courts or courts or tribunals of any kind other than the regular modern law courts of China. From the inception of all legal proceedings, both civil and criminal, until the conclusion thereof, including the hearing of all cases in court, the assistance of duly qualified American or other foreign or Chinese lawyers and interpreters will be permitted.

**ARTICLE 2. Establishment of special chambers in the high and district courts.**

In the district courts in Harbin, Mukden, Peiping, Tientsin, Tsingtau, Shanghai, Nanking, Hankow, Chungking, Canton, Foochow and Yunnanfu, and in the high courts having appellate jurisdiction over such district courts, special chambers shall be established for dealing with civil and criminal cases in which an American citizen is the defendant or the accused. (The territorial jurisdictions of the special chambers to be determined in accordance with the practicability of access by agreement between the United States and the Chinese Governments.) All cases involving American citizens as defendants or accused, wherever resident, shall be tried only before these special chambers, which will also be for cases in which American citizens are involved as plaintiffs or complainants originating within the ordinary jurisdiction of the courts to which the special chambers are attached.

The chief judge of a special chamber shall be the President of the Court to which the chamber belongs. Other judges of the special chamber as well as its procurators shall be selected from among legal scholars with training and experience of a long duration. Their names, ranks and salaries will be made known to the public. To each special chamber shall be attached legal advisers who shall be selected by the Chinese Government from a list of foreign legal experts nominated by the Hague Permanent Court of International Justice and appointed in accordance with conditions of service and salary recommended by the said court. It is understood that a legal adviser need not permanently reside at the port in which the special chamber of the district court to which he is assigned is established and furthermore that there shall be a thoroughly flexible and practicable system of administration of assignments in order to ensure efficiency and economy in the employment of the said legal advisers. As far as may be practicable a legal adviser of American nationality will assist



at the trial of cases involving American citizens as defendants or accused.

The legal advisers will observe the working of the special chambers of the district courts and high courts in question and shall have access to the files of the proceedings and may present their views to the judges who will give due consideration to the views thus expressed by the legal advisers. It will be the duty of the legal advisers—to forward to the Minister of Justice such reports as they may consider necessary, and copies of these reports, in cases concerning American citizens, will simultaneously be forwarded to the American Legation in China. The legal advisers will be authorized to receive complaints to which the administration of justice may give rise, with a view to bringing such complaints to the notice of the Minister of Justice in order to ensure the strict observance of the provisions of Chinese law. Similarly the legal advisers will be authorized to receive any other complaints including such as may be caused by domiciliary visits, requisitions or arrests, et cetera. In all cases in which American citizens are involved as defendants or accused, a legal adviser shall sit as one of the judges hearing the case in both the district and high courts, and the concurrence of the legal adviser to any judgment or order will be necessary for its validity.

The special chambers above referred to shall be established and the legal advisers shall be appointed and installed in office before the exchange of ratifications of this agreement.

ARTICLE 3. Guarantees in regard to taxation and the operation of courts.

With regard to the transfer of jurisdiction over American citizens in China from the United States to the Chinese courts, the Chinese Government declares as follows:

That American citizens will only be liable for the payments of such nondiscriminatory Chinese taxation as is authorized under the legally enacted and duly promulgated laws, ordinances and regulations of the Central, Provincial and Municipal governments of China, the texts and the translations which shall first be communicated to the American Legation in China;

That American citizens will be protected against all illegal taxation and irregular exactions and against all exactions sought to be enforced by Executive Departments without due process of law;

That municipal taxation will only be enforced against American citizens in accordance with duly authorized municipal regulations sanctioned by the Central Government of China and that the proceeds of such municipal taxation will only be expended on relevant purposes within the municipal areas in question and that American citizens will be protected against unfair or oppressive methods of assessing or levying such taxation;

That the Chinese courts will ensure to the persons and property of American citizens due protection in accordance with international law and the general practice of nations; and

That the Chinese courts assuming jurisdiction over American citizens will be kept strictly immune from administrative or other interference by any military or nonjudicial authority.

ARTICLE 4. Rights of evocation.

The United States Government through American diplomatic or consular officers in China, whenever in their discretion they deem it

proper so to do in the interest of justice, may by means of a written requisition addressed to the competent Chinese authorities including the judge or judges of the court in which such case is pending evoke any case pending in any Chinese court in which an American citizen is defendant or accused. Such case will then be transferred to the competent American authorities for adjudication and Chinese jurisdiction in the case will cease. In these evoked cases the rights and liabilities of the parties will be determined by Chinese laws so far as they have been regularly promulgated and enforced and communicated to the American Legation in China. For dealing with evoked cases the jurisdiction of the United States Courts in China will continue; and the Chinese authorities will lend any assistance requested by the American authorities in this connection.

**ARTICLE 5. Arrest, imprisonment and trial.**

American citizens may not be arrested, detained or imprisoned except upon order formally issued by a modern law court specifically citing by title and section of the law under which, and the offense for which, such arrest is made, save when caught in the act of misdemeanor or crime. They shall within 24 hours after arrest, exclusive [of] legal holidays, be brought before the nearest modern law court competent to deal with the case for hearing. If there is no competent modern court which can be reached within this space of time any American citizen thus arrested will be brought before the nearest competent modern court with the least possible delay.

Any American citizen arrested or otherwise detained shall be permitted to communicate immediately with the nearest American Consular officer and he shall be afforded all possible facilities to that end. American consular officers or their representatives shall be permitted to visit any arrested American citizen in prison or in the premises in which he may be detained.

American citizens under detention or sentence of imprisonment will only be detained or imprisoned in modern prisons or in other premises suitable for their detention where they may be visited by American consular officers or their representatives as occasion may demand.

It is understood that any American citizen sentenced to imprisonment for a period of not more than one year will be permitted on written application of his own to convert such sentence into a pecuniary fine at the rate of one dollar for every day's imprisonment.

Immediate release on bail will be granted to any American citizen arrested in every instance except the case of crimes punishable by death or imprisonment for life, the amount of bail being reasonably proportionate to the offense alleged. Such facilities for release on bail will be granted to appellants until the sentence of the appellate court is given. American citizens shall not be subject to imprisonment for debt. If however execution on the debtor's goods actually in China appears subject to serious dangers by the act of the debtor or if execution cannot be safeguarded by other means he may be detained in the manner provided for such cases under Chinese law.

All trials of cases involving American citizens will be open to the public and all persons interested in the hearing or in the examination of the accused may be present as spectators.

**ARTICLE 6. Reservation of personal status matters.**

American citizens in China will not be amenable to Chinese jurisdiction in all matters of personal status, namely all questions relating to

marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliations, adoption, capacity, majority, guardianship, trusteeship, and interdiction and in all matters relating to succession to personality whether by will or on intestacy and the distribution and winding up of estates and family law in general.

ARTICLE 7. Arbitration.

The Chinese courts will recognize agreements entered into by American citizens between one another and with other foreign nationals and with Chinese citizens for the settlement of civil or commercial controversies by arbitration and will enforce awards made in pursuance thereof unless contrary to public order or good morals.

ARTICLE 8. Titles to real property.

The Chinese Government agrees that titles to real property held by American citizens in China shall be regarded as indefeasible and shall remain undisturbed by the provisions of this agreement. All legal Chinese land transfer fees leviable under regular Chinese legislation as provided in article 3 will, where properly payable under such legislation, be paid by American citizens on account of land transactions in the future. But no demands will be made by the Chinese authorities for the payment of such land transfer fees on transfers of land to or from American citizens in the past and titles to land held by American citizens will not be changed [*called?*] in question on account of non-payment of such transfer fees in the past.

ARTICLE 9. Reservation of settlements and concessions.

It is understood that this declaration is not applicable in foreign-controlled settlements and concessions in China where the existing judicial arrangements affecting American citizens shall remain unchanged until modified by mutual agreement between the Governments concerned. It is, furthermore, understood that this agreement is not applicable within a radius of 50 li from the present customhouse at Shanghai.

ARTICLE 10. Immunity of American citizens and their property and shipping from [apparent omission] illegal searches, expropriations and remains [*requisitions?*].

The public buildings and private residences of American citizens in China and their warehouses and business premises and factories together with all their accessories, articles and properties shall be respected and shall not be subjected to any prerequisite search or inspection and the books and correspondence relating to their commercial transactions shall not be seen except as specifically provided for in non-discriminatory legislation legally enacted and duly promulgated. In no event shall premises occupied by American citizens be forcibly entered except upon a warrant formally issued by a modern law court specifically citing by title and section of the law under which action is authorized. American citizens in China will not be subjected directly or indirectly to any form of military service or to any tax or presentation [*levy?*] imposed as a substitute for military service or to military requisitions or contributions of any kind nor will they be compelled to subscribe directly or indirectly to any public loan or any other form of forced levy.

The property of American citizens in China may not be expropriated or the use of it denied to them even temporarily except for reasons of public interest recognized by law as such and in return for

fair compensation to be had in advance. No expropriations, without public notice being previously given.

American commercial vessels in Chinese ports or coastal waters or rivers will not be subject to restraint or to any form of commandeering, requisition, inspection or search nor such vessels be boarded by Chinese police, military or other armed authority unless by agreement with the captain of the vessel except upon a warrant formally issued by a modern law court specifically citing by title and section the law under which action is authorized. American commercial vessels will not be compelled to carry Chinese troops whether armed or unarmed or Chinese military supplies without the permission of the owner expressed through the captain of vessel.

ARTICLE 11. American companies, firms, partnerships and corporations incorporated or organized in accordance with American law operating in China shall be entitled to all the rights and privileges enjoyed by American citizens under this agreement including the rights enjoyed in Chinese courts whether as plaintiffs, complainants or defendants. It is understood that such American companies, firms or corporations and their branches, agencies or representatives will not be subject to discriminatory treatment and will only be taxed in proportion to the amount of capital actually employed in China or in respect of the profits and revenues which they have actually earned [in China?].

ARTICLE 12. Understanding regarding pending cases.

It is understood that after the transfer of jurisdiction over American citizens in China from the United States to Chinese courts, as provided for in this agreement, suits terminated under the former American juridical system shall not be reopened and that judgments rendered by former United States courts shall be executed; that suits pending in the United States courts at the time of the exchange of ratifications of this agreement shall continue until the execution of judgment in the said courts, the jurisdiction of which will remain in full force for this purpose; and that the Chinese authorities will lend any assistance requested by the American authorities in this connection.

ARTICLE 13. Rights of residence and trade.

(It is understood that as from the date of exchange of ratifications of this agreement American citizens will enjoy the right without restriction to reside, trade and own property throughout China).

ARTICLE 14. Nondiscriminatory treatment for American citizens.

In all matters for which this agreement provides, American citizens shall enjoy all the rights enjoyed by the nationals of the country most favored in such respects and shall not suffer discriminatory treatment in regard to taxation, judicial, or any other matters concerned, as compared with citizens of China or the nationals of any other country.

ARTICLE 15. Existing treaties to remain in force.

Except as modified in this agreement, the existing treaties between the United States and China shall remain in force.

ARTICLE 16. Ratification and duration.

Agreement to be ratified, to come into force upon exchange of ratifications and thereupon binding for ten years".

793.003/328

*The Department of State to the British Embassy*

## MEMORANDUM

Referring to the British Embassy's memorandum of March 18,<sup>13</sup> it is noted that Sir M. Lampson had under consideration the possible advisability of considering seriously the idea of a provision for foreign co-judges, with surrender of criminal jurisdiction, *provided* there could also be secured rights of evocation and other safeguards, a minimum duration of a specified period of years, and most-favored-nation treatment in all matters of jurisdiction. It is noted that Sir M. Lampson and Judge Feetham and His Majesty's Consul General at Shanghai conferred on the subject of the possible effect of the surrender of criminal and even civil jurisdiction on the status of settlements and concessions with special reference to Shanghai and that Sir M. Lampson reached the conclusion that the position with regard to settlements and concessions must be fully safeguarded in any new agreement abolishing or seriously impairing the existing extraterritorial rights. Note is made of the alternative methods which Sir M. Lampson suggests for dealing with that problem.

The views of His Majesty's Government on the questions raised with regard to Shanghai, as communicated to Sir M. Lampson on February 26; also the observations of His Majesty's Government on the general question; the view expressed that it might be worth making an effort to secure co-judges and the right of evocation for the return of criminal jurisdiction; the suggestion that the Chinese objections might possibly be met by adopting the Siamese system, as outlined; and the suggestion made with regard to the tactics which might be employed are noted.

It is noted that on March 6 Sir M. Lampson informed the Secretary of State for Foreign Affairs that a more detailed scheme, embodying the principle of surrender of all jurisdiction in return for foreign co-judges plus safeguards and providing for geographical exclusion of settlements and concessions, was under preparation; and note is made of Sir M. Lampson's expression of the opinion that the provision for foreign co-judges should be the objective on which to concentrate.

It is noted that His Majesty's Government and Sir M. Lampson appeared to be in agreement as to the wisdom of separating the question of Shanghai from the general question of extraterritorial jurisdiction. Sir M. Lampson's suggestions with regard to tactics in dealing with the question of settlements and concessions are noted.

<sup>13</sup> Not printed.

Note is made of the comment of His Majesty's Consul General at Shanghai, received by Mr. Henderson on March 12, with regard to the area at Shanghai which might best be considered for exclusion, including the arguments advanced in support of the idea of standing out for the exclusion of "greater Shanghai".

Commenting upon the above, reference may be made to the view of the Department already communicated to the British Embassy that the problem of Shanghai may reasonably be regarded as distinguishable from the general problem of extraterritoriality. It is believed that it would be desirable to deal with it as a separate problem. It is believed, also, that for purposes of consideration it will be desirable to envisage the possibility of making a special agreement dealing with the area of "greater Shanghai".

The Department has been informed by the American Minister to China, Mr. Johnson, that he and Sir M. Lampson are collaborating in the drafting of a proposal with a view to submitting to their respective Governments for consideration ideas upon which they may be able to agree as a basis for a plan which might be simultaneously though separately offered to the Chinese for consideration. The Department welcomes this development and is confident that the contact thus established will contribute substantially toward ensuring full consideration of the many angles and possibilities of the problems involved. The Department has now received a copy of the text of a draft upon which Sir M. Lampson and Mr. Johnson have collaborated and will communicate to the Embassy a copy thereof.

WASHINGTON, April 2, 1930.

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793.003/337 : Telegram

*The Minister in China (Johnson) to the Acting Secretary of State*

[Extract]

PEIPING, April 3, 1930—3 p. m.

[Received April 3—12:50 p. m.<sup>14</sup>]

245. [My] 226, March 28, 9 a. m., and previous telegrams.

1. This draft was originally the work of Teichman who endeavored to bring all viewpoints together for submission to London as basis for instructions.

2. Draft subsequently examined by Lampson, Teichman, Perkins and myself and present text worked out, which has been identically communicated by Lampson to London and by myself to Washington in telegram 226.

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<sup>14</sup> Telegram in five sections.

3. Text has been given to French, Japanese, Netherlands and Norwegian colleagues here who have communicated it to their respective Governments.

[4.] Neither Lampson nor I desire to give the impression in Washington or in London that we think draft final. Our only desire has been to put into one draft the ideas which we feel to be held in common between our two countries.

JOHNSON

793.003/337

*Revised Draft Agreement of April 9, 1930, Based on the Johnson-Lampson Draft*<sup>15</sup>

(Without Commitment)

The United States Government having declared its willingness that January 1, 1930, should be regarded as the date upon which the process of gradual abolition of the extraterritorial rights of American citizens in China shall in principle have commenced, the Chinese Government will with a view to enabling American citizens during the period of transition to familiarize themselves with Chinese laws and judicial procedure immediately communicate to the United States Government all Chinese codes actually promulgated and enforced, together with authorized translations thereof.

The United States Government will forthwith take steps toward applying as far as practicable in the United States Courts in China all such Chinese laws, ordinances and regulations as shall have been promulgated and enforced and communicated with translations to the American Legation in China.

The following agreement for the transfer of jurisdiction over American citizens in China from the United States to the Chinese Courts shall come into effect upon the exchange of ratifications which shall take place one year after the Chinese Government shall have promulgated and actually put into operation all the principal codes in conformity with modern concepts of jurisprudence and shall have communicated texts thereof, together with authorized translations thereof, to the American Legation in China.

*Article One. Transfer of Jurisdiction.*

Except in criminal cases and as otherwise provided by this agreement, American citizens in China will as from the date of the exchange of ratifications of this agreement be subject to the jurisdiction

<sup>15</sup> For the Johnson-Lampson draft, see telegram No. 226, March 28, 1930, from the Minister in China, p. 418.

of the modern Chinese law courts, with rights of appeal and in all other respects in accordance with the modern Chinese codes of law and procedure. They shall not, however, be subject to the jurisdiction of the police courts, except in the case of minor offenses not punishable by detention or imprisonment or fines exceeding \$10, nor to the jurisdiction of the magistrates courts, nor to that of military courts or courts or tribunals of any kind other than the regular modern law courts of China. From the inception of all such civil proceedings until the conclusion thereof, including the hearing of all cases in court, as well as preliminary investigations or examinations of whatever nature, the assistance of duly qualified American or other foreign or Chinese lawyers and interpreters will be permitted, it being understood that no technical difficulties will be placed in the way of such representation on the part of any foreign lawyer resident in China and in good standing selected by the parties to the action; it being further understood that the lawyer concerned shall have all the rights and privileges accorded to a Chinese lawyer in similar circumstances.

Hearings shall be in the Chinese language, but the Court shall take measures to ensure that such English and Chinese translations are made during hearings and later, as may be necessary for an understanding of the proceedings by all parties to the case, and their representatives.

The language of the special courts for the trial of cases involving American citizens shall be Chinese and English. The records shall be kept and the judgments, decisions, orders, warrants, summonses and other processes of the courts shall be written in Chinese and English.

American parties to a suit or persons authorized by them, shall, upon payment of the usual official fees for such copy, have the right to obtain, in both Chinese and/or English, certified copies of the evidence and judgment in such suit.

*Article Two. Establishment of Special Chambers in the High and District Courts.*

In the district courts in Harbin, Mukden, Peiping, Tientsin, Tsingtau, Shanghai, Nanking, Hankow, Chungking, Canton, Foochow and Yunnanfu, and in the high courts having appellate jurisdiction over such district courts, with the exception of the Supreme Court, special chambers shall be established for dealing with civil cases in which an American citizen is the defendant or the accused. (Note: The territorial jurisdiction of such courts in respect to American citizens shall be determined, in accordance with the practicability of access, by agreement between the United States and the Chinese Governments.) All civil cases involving American citizens as defendants, wherever resident, except when they may be taken to the Supreme



Court on final appeal, or when an American citizen concerned may elect, in writing, to submit himself to the jurisdiction of the local (modern) court having jurisdiction over purely Chinese cases of a similar nature, shall be tried only before these special chambers, which will also hear cases in which American citizens are involved as plaintiffs or complainants originating within the ordinary jurisdiction of the courts to which the special chambers are attached.

The chief judge of a special chamber shall be the President of the Court to which the chamber belongs. Other judges of the special chamber as well as its procurators shall be selected from among legal scholars with thorough training and lengthy practical experience and with a broad knowledge of the general concepts of western legal codes and procedure. Their names, ranks and salaries shall be made known to the public and they shall not be removed from office without cause being publicly shown. To each special chamber there shall be attached legal advisers who shall be selected by the Chinese Government from a list of foreign jurists nominated by the Hague Permanent Court of International Justice and appointed in accordance with the conditions of service and salary recommended by the said Court. Such legal advisers shall remain in office for a specified term unless dismissed for cause publicly shown and shall otherwise receive the consideration and respect due the dignity of their office. It is understood that a legal adviser need not permanently reside at the port in which the special chamber of the district court to which he is assigned is established and furthermore that there shall be a thoroughly flexible and practicable system of administration of assignments in order to ensure efficiency and economy in the employment of the said legal advisers. As far as may be practicable a legal adviser of American nationality shall officiate at the trial of cases involving American citizens as defendants or accused.

In cases in which American citizens are plaintiffs or complainants, the legal advisers shall observe the working of the special chambers of the district courts and high courts in question and shall have access to the files of the proceedings which to this end shall be both in English and in Chinese. The legal advisers may present their views to the judges, who shall give due consideration to the views thus expressed by the legal advisers. It shall be the duty of the legal advisers to forward to the Minister of Justice such reports as they may consider necessary, and copies of these reports in cases concerning American citizens shall simultaneously and immediately be forwarded by the legal advisers to the American Legation in China. The legal advisers shall be authorized to receive complaints to which the administration of justice may give rise, with a view to bringing such complaints to the notice of the Minister of Justice in order to ensure the strict observance of the provisions of Chinese law. Similarly the legal

advisers shall be authorized to receive any other complaints, including such as may be caused by domiciliary visits, requisitions or arrests, et cetera. In all cases in which American citizens are involved as defendants, a legal adviser shall sit as one of the judges hearing the case in both the district and high courts, and the concurrence of the legal adviser to any judgment or order shall be necessary for its validity.

The special chambers above referred to shall be established and the legal advisers shall be appointed and installed in office before the exchange of ratifications of this agreement.

*Article 3. Guarantees in Regard to Taxation and the Operation of Courts.*

With regard to the transfer of jurisdiction over American citizens in China from the United States to the Chinese courts, the Chinese Government declares as follows:

(a) That American citizens shall be liable for the payments of such non-discriminatory Chinese taxation only as is authorized under the legally enacted and duly promulgated laws, ordinances and regulations of the Central, Provincial and Municipal Governments of China, the texts and the translations of which shall first have been communicated to the American Legation in China;

(b) That American citizens shall be protected against all illegal taxation and irregular exactions and against all exactions sought to be enforced without due process of law;

(c) That municipal taxation shall only be enforced against American citizens in accordance with duly authorized municipal regulations sanctioned by the Central Government of China and that the proceeds of such municipal taxation shall only be expended on relevant purposes within the municipal areas in question and that American citizens shall be protected against unfair or oppressive taxation or methods of assessing or levying such taxation;

(d) That the Chinese court shall ensure to the persons and property of American citizens due protection in accordance with international law and the general practice of nations; and

(e) That the Chinese courts assuming jurisdiction over American citizens shall be kept strictly immune from administrative or other interference by any military or non-judicial authority.

*Article 4. Rights of Evocation.*

The United States Government through American diplomatic or consular officers in China, whenever in their discretion they deem it proper so to do in the interest of justice or as a result of a violation of any of the provisions of this agreement, express or implied, may by means of a written requisition addressed to the competent Chinese authorities including the judge or judges of the court concerned, evoke

any case pending in any Chinese court in which an American citizen is defendant. A case so evoked shall be transferred forthwith to the competent American authorities for adjudication and Chinese jurisdiction in the case will cease. The Chinese authorities shall lend any assistance requested by the American authorities in dealing with evoked cases. In evoked cases the rights and liabilities of the parties shall be determined by Chinese laws so far as they have been regularly promulgated and enforced and communicated to the American Legation in China.

*Article 5. Arrest, Detention and Trial.*

American citizens may not be arrested, detained or imprisoned except when taken in the act of a misdemeanor or crime, in which case the person so taken shall, within twenty-four hours after arrest, be handed over to the nearest American consular or other American judicial authority for appropriate action.

Any American citizen detained in a civil action in accordance with recognized Chinese law and procedure, which shall include the issuance by a modern court of a formal order specifically citing by title and section the law under which such detention is authorized, shall be permitted to communicate immediately with the nearest American consular officer and shall be afforded all possible facilities to that end. American consular officers or their representatives shall be permitted freely to visit any American citizen in whatsoever place he may be detained.

American citizens under detention shall be detained in none but modern premises suitable for their detention, and there they may be visited by American consular officers or their representatives as occasion may demand.

In the event of illness, an American citizen under detention shall be provided as promptly as possible with the services of a foreign medical practitioner and, should such practitioner consider such American citizen in need of hospital treatment, the Chinese authorities shall take all possible measures to facilitate the removal of such American citizen to a modern hospital for treatment.

Release upon deposit of reasonable security shall be granted to any American citizen detained in connection with a civil action, the amount of security being reasonably proportionate to the amount of the claim involved in the action. Such facilities for release on security will be granted to appellants until the decision of the appellate court is given. American citizens shall not be subject to imprisonment for debt. If, however, execution on the debtor's goods in China appears actually endangered by an act of the debtor or if execution

cannot be safeguarded by other means the debtor may be detained in the manner provided for such cases under Chinese law.

All trials of cases as well as other proceedings involving American citizens shall be open to the public, and all persons interested in the hearing or in the examination of the defendant may be present as spectators.

*Article 6. Reservation of Personal Status Matters.*

American citizens in China shall not be amenable to Chinese jurisdiction in any matters of personal status, among which are included all questions relating to marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliation, adoption, capacity, majority, guardianship, trusteeship and interdiction, and in all matters relating to succession to personalty, whether by will or on intestacy, and to the distribution and winding up of estates and family law in general.

*Article 7. Arbitration.*

The Chinese courts will recognize agreements entered into by American citizens between one another and with other foreign nationals and with Chinese citizens for the settlement of civil or commercial controversies by arbitration and will enforce awards made in pursuance thereof unless contrary to public order or good morals.

*Article 8. Titles to Real Property.*

The Chinese Government agrees that titles to real property held by American citizens in China shall be regarded as indefeasible and shall remain undisturbed by the provisions of this agreement. All legal Chinese land transfer fees leviable under regular Chinese legislation as provided in Article 3 shall, where properly payable under such legislation, be paid by American citizens on account of land transactions in the future. But no demands shall be made by the Chinese authorities for the payment of such land transfer fees on transfers of land to or from American citizens in the past and titles to land held by American citizens shall not be called in question on account of non-payment of such transfer fees in the past. Title to property held by American citizens shall likewise not be questioned other than when fraud is proved as a result of due process of law.

*Article 9. Reservation of Settlements and Concessions.*

It is understood that this agreement shall not apply in areas where, on the basis of agreements between China and any other Power or Powers, Chinese administrative jurisdiction does not apply. It is, furthermore, understood that this agreement shall not apply within a radius of fifty li from the present customs house at Shanghai.

*Article 10. Immunity of American Citizens and Their Property and Shipping from any and all Illegal Searches, Expropriations and Requisitions.*

The public buildings and private residences of American citizens in China and their warehouses and business premises and factories, together with all their accessories, articles and properties shall be respected and shall not be subjected to any requisition, search or inspection, and the books and correspondence relating to their commercial transactions shall not be examined except as specifically provided for in non-discriminatory legislation legally enacted and duly promulgated, and as a result of due legal process. In no event shall premises occupied by American citizens be forcibly entered except upon a warrant formally issued by a modern law court specifically citing, by title and section, the law under which action is authorized; and the section of the Chinese code relating to domiciliary searches by procurators without court processes shall not apply to such premises. American citizens in China shall not be subjected directly or indirectly to any form of military service or to any tax or levy imposed as a substitute for military service or to military requisitions or contributions of any kind, nor shall they be compelled to subscribe directly or indirectly to any public loan or to any other form of forced levy.

The property of American citizens in China may not be expropriated, nor may the use of it be denied to its owners even temporarily except for reasons of public interest recognized by law as such in the form of a court order emanating from one of the modern courts described in this agreement. No expropriations shall be made without previous public notice and in return for fair compensation to be paid in advance. The use of the property of American citizens may not be denied to them even temporarily except in return for fair compensation to be paid in advance.

American commercial vessels in Chinese ports or coastal waters or rivers shall not be subject to restraint or to any form of commandeering, requisition, inspection or search, nor shall such vessels be boarded by Chinese police, military or other armed authority except by agreement with the captain of the vessel, or upon a warrant formally issued by a modern law court specifically citing by title and section the law under which such action is authorized. American commercial vessels shall not be compelled to carry Chinese troops, whether armed or unarmed, or Chinese military supplies.

*Article 11. Treatment to be Accorded American Business Organizations.*

American companies, firms, partnerships and corporations incorporated or organized in accordance with American law operating in

China shall be entitled to all the rights and privileges enjoyed by American citizens under this agreement, including the rights enjoyed in Chinese courts, whether as plaintiffs, complainants or defendants. It is understood that such American companies, firms or corporations and their branches, agencies or representatives shall not be subject to discriminatory treatment and American legal persons shall only be taxed in proportion to the amount of capital actually employed in China or in respect of the profits and revenues which they have actually earned in China.

*Article 12. Understanding Regarding Pending Cases.*

It is understood that after the transfer of civil jurisdiction over American citizens in China from the United States' courts to Chinese courts, as provided for in this agreement, suits terminated under the former American juridical system shall not be reopened; that judgments previously rendered by former United States' courts shall be executed in any part of China by the Chinese judicial authorities; that suits pending in the United States' courts at the time of the exchange of ratifications of this agreement shall continue until the execution of judgment in the said courts, the jurisdiction of which shall remain in full force for this purpose; and that the Chinese authorities will lend any assistance requested by the American authorities in this connection.

*Article 13. Rights of Residence and Trade.*

It is understood that as from the date of exchange of ratifications of this agreement American citizens shall enjoy the right without restriction to reside, travel, trade and own property throughout China.

*Article 14. Non-discriminatory Treatment for American Citizens.*

In all matters for which this agreement provides, American citizens shall enjoy all exemptions from Chinese jurisdiction which may be enjoyed by the nationals of any other country and shall be subjected to no discriminatory treatment in regard to taxation, judicial, or any other matters concerned, as compared with citizens of China or the nationals of any other country.

*Article 15. Provisions of Existing Treaties to Remain in Force.*

Except as modified in this agreement, the existing treaties between the United States and China shall remain in force.

*Article 16. Ratification and Duration.*

This agreement shall come into force upon exchange of ratifications and shall thereupon be mutually and reciprocally binding for a period of ten years, at the end of which period the agreement may, in response to the demand of either party made six months prior to the

expiration of the period, be revised by negotiation between the parties thereto. Should neither party demand such revision of the agreement, it shall continue in full force for an additional period of five years, at the expiration of which term the same privileges of revision by mutual consent after negotiation shall apply.

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793.003/340a : Telegram

*The Acting Secretary of State to the Minister in the Netherlands (Diekema)*

WASHINGTON, April 11, 1930—6 p. m.

34. Inform Dr. C. C. Wu, Chinese Minister to the United States attending conference on International Law, that Department is withholding materials on extraterritoriality pending return of Secretary of State from London. Avoid any discussion.

COTTON

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793.003/337

*The Chief of the Division of Far Eastern Affairs (Hornbeck) to the British Counselor of Embassy (Campbell)*

[Extract]

WASHINGTON, April 17, 1930.

DEAR MR. CAMPBELL: Referring further to my letter of April 5<sup>16</sup> and its enclosure, I am now in position to inform you that the Department has considered the draft prepared by Sir M. Lampson and Mr. Nelson T. Johnson, in collaboration, for submittal to their respective Governments for their consideration, a copy of the text of which was enclosed to you with my letter under reference. The Department has made amendments to and alterations in this draft, particularly in regard to provision for the retention of criminal jurisdiction, and I am sending you enclosed two copies of the Department's revision.<sup>17</sup>

You will note that this draft makes provision both for retention of criminal jurisdiction and for the installation of advisers who shall in certain cases act as co-judges. . . .

. . . . .

In submitting the draft herewith enclosed, I must point out that the Department is not committed to this text or by this action.

A copy of this text is being communicated by telegraph to the American Minister to China with instruction that he discuss it with Sir M. Lampson and submit by telegraph any comments or suggestions which he may wish to make. It is requested that the British Embassy

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<sup>16</sup> Not printed.

<sup>17</sup> *Ante*, p. 426.

transmit a copy to the Foreign Office and that the British Embassy inform the Foreign Office that any comments or suggestions which the Foreign Office may be disposed to make will be welcomed by the Department.

It is probable that the Department's conversations with the Chinese Minister here will be resumed at an early date.

Yours cordially,

S[TANLEY] K. H[ORNBECK]

793.003/337 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, April 19, 1930—6 p. m.

137. Your Nos. 226, March 28, 9 a. m., and 245, April 3, 3 p. m.

1. The Department gives below a draft which includes certain suggested amendments to and deletions from the draft prepared by yourself and Lampson. You are authorized in your discretion to discuss this with the British Minister after which the Department invites your full comments and suggestions either for or against the suggested changes as well as any further comment that you may care to make in amplification of your telegrams mentioned above.

. . . . .

3. The Department is giving to the British Embassy two copies of the present draft, with request that one copy be transmitted to London and comments of the Foreign Office be sought, and with the express reservation that the Department is in no way committed to this text or by this action. Department requests that your comments be submitted at your earliest possible convenience.

[Here follows text of revised draft, printed on page 426.]

COTTON

793.003/337

*The Acting Secretary of State to the Minister in China (Johnson)*

No. 96

WASHINGTON, April 28, 1930.

SIR: In reference to the Department's telegrams No. 137 of April 19, 6 p. m., and No. 139 of April 21, 5 p. m.,<sup>18</sup> there are enclosed for your information: (1) copies, in duplicate, of the Department's revision of the draft prepared by you and the British Minister in reference to a plan for the gradual relinquishment of extraterritorial jurisdiction; <sup>19</sup> and (2) copies, in duplicate, of the Department's transmitting

<sup>18</sup> Latter not printed.

<sup>19</sup> Ante, p. 426.



letter of April 17, to the British Embassy.<sup>21</sup> As stated in the Department's No. 147 of April 26, 7 p. m.,<sup>22</sup> the Department on April 23, in response to a suggestion from the British Embassy, telegraphed to the American Ambassador at London<sup>22</sup> the full text of the revised draft with instructions that it be promptly communicated to the British Foreign Office. The American Ambassador was further instructed to obtain from the British Foreign Office the principal portions of the Department's letter of April 17 to the British Embassy as telegraphically transmitted to the Foreign Office by the Embassy.

The Department has noted with interest the statement made in your telegram No. 280 of April 22, 4 p. m.,<sup>22</sup> in reference to the British Minister's statement that in his conversations with C. T. Wang and Wang Chung-hui both appeared to accept the fact that "the question of extraterritoriality would require a little time".

Reports of recent developments in China point to the necessity for proceeding with caution in this whole matter and it is hoped that the attitude of C. T. Wang and Wang Chung-hui as thus reported are indicative of a willingness on the Chinese side to give due consideration to these determining circumstances.

I am [etc.]

For the Acting Secretary of State:  
FRANCIS WHITE

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793.003/374

*Memorandum by the Minister in China (Johnson)*<sup>23</sup>

[NANKING,] May 1, 1930.

I spent the morning with Sir Miles Lampson and Mr. Eric Teichman, Chinese Secretary of the British Legation. I had previously prepared a document showing in parallel columns the draft on extraterritoriality containing the British amendments and the revision of the Lampson-Johnson draft prepared by the Department of State. We agreed that, in view of the fact that the Department's revised draft reserved to the countries concerned jurisdiction in criminal cases and, in view of the fact that it would be wise to retain this jurisdiction, at the same time asking for co-judges for purposes of possible trading later, we would take the Department's draft as the draft upon which we would work and consider it the first line of attack in any negotiations on extraterritoriality, reserving the British draft with the Foreign Office amendments, and certain additions to be taken from the Department of State draft, as our second, or Hindenburg line. We

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<sup>21</sup> *Ante*, p. 434.

<sup>22</sup> Not printed.

<sup>23</sup> Copy transmitted to the Department without covering despatch; received June 19, 1930.

then proceeded to read the Department's draft through and, having noted down certain comments which are to be drawn up in memorandum form by Mr. Teichman, we approved of this draft and proposed to recommend it to our respective Governments for acceptance by them as a basis for negotiation.

Sir Miles told me that he had not discussed extraterritoriality with C. T. Wang during his present visit, although he had had conversations on the subject with Hu Han-min and Wang Chung-hui. Such conversations, however, had been directed to the general subject rather than to any specific terms to which the two countries might agree. He stated that he had told them here quite frankly that the whole matter was being considered by his Government, that his Government would doubtless desire to discuss the matter with other interested Powers, that he himself did not expect to come back to Nanking until September when he would doubtless be prepared to stop here for the whole month of September for the purpose of negotiating on this question and possibly settling it. He said that no one at the present time in the Government seemed inclined to press the question of extraterritoriality. He said that they seemed to be quite aware of the fact that it was something that would have to move slowly.

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793.003/347 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, May 2, 1930—4 p. m.

151. Your 297, May 1, 6 p. m.<sup>24</sup> For your information and discreet use if inquiries are made, it is true that Washington and London have been conferring, but it is not true that resumption of negotiations is in any way contingent upon previous reaching of an agreement.

STIMSON

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793.003/348 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 3, 1930—2 p. m.

[Received 4:55 p. m.<sup>25</sup>]

304. Following from Minister Johnson at Nanking:

"Please communicate the following to the Department, referring to Department's telegram 137 of April 19, 6 p. m.

1. I have discussed draft with British Minister and we have agreed upon comments which we are today communicating identically to our respective Governments.

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<sup>24</sup> Not printed.

<sup>25</sup> Telegram in six sections.

2. I have no further views on co-judges. I believe that, for purposes of negotiation, matter should stand as in draft.

3. I have made no [?] new draft of undertaking in article 3 as we are agreed that provisional draft will serve very well for beginning of negotiations.

4. I like redraft of article 15 [9?]. Please note British addition.

5. Identic comments follow.

6. 'Agreed comments of British and American Ministers on American redraft.

(a) The principal points of difference between the original agreed draft and the American redraft lies in the reservation in the latter part of criminal jurisdiction. We agree that this may be desirable as a matter of tactics, but we think it essential to retain, as a second string, the relevant portions of the original draft containing safeguards in connection with criminal jurisdiction for incorporation in the new American draft in case, in the course of negotiations, we have to fall back upon the surrender of criminal jurisdiction.

(b) Subject to the above and to following comments, we agree to the American redraft and we suggest that our respective Governments should now collaborate in producing a final agreed version.

(c) It is to be understood that the following comments and suggestions apply to the American redraft as communicated by the American Minister to the British Minister on April 30th. The reference to "Foreign Office additions" are to the additions suggested by the Foreign Office to the original agreed draft.

(d) Preamble, insert Foreign Office additions, namely, after the words "ordinances and regulations" insert the words "not including, however, Chinese laws of procedure, whether civil or criminal".

(e) Article 1. Attention is called to a possible incompatibility between the opening words excepting criminal cases and the phrase providing for the subjection of American citizens to police courts in case of minor offenses, but it is assumed that the latter do not fall within the scope of the technical meaning of the words "criminal cases", still we question the wisdom of penultimate paragraph beginning with the words: "the language of the courts" as going further than what can be reasonably demanded. To refute it might merely rub up the Chinese. The Foreign Office addition to this article in the original agreed draft is no longer applicable if criminal jurisdiction is reserved as under the American redraft.

(f) Article 2. Delete the words "or the accused", which have accidentally been left in the redraft in two places. After the words "in cases in which American citizens are plaintiffs or complainants" and before the words "the legal advisers shall observe" add the words "or defendants".

(g) Article 3. Insert Foreign Office addition, namely, in (a) after words "taxation only as is" insert words "actually paid by all Chinese citizens and is"; and after (c) insert a new assurance "that tax agreements entered into with American merchants, firms, and companies will be duly respected".

(h) Article 4. Attention is called to the omission of the sentence: "for dealing with evoked cases as well as personal status cases under article 6 the jurisdiction of the United States courts in China will continue"; it is assumed, however, that with the retention of criminal ju-

risdiction the continued existence of the United States courts is taken for granted and that this sentence is therefore properly omitted.

(*z*) Article 5. In the first paragraph, for "misdeed" read "misdemeanor".<sup>26</sup> In the same paragraph after words "crime in which" insert the words "case, if the act is punishable by fine of more than ten dollars or by detention or imprisonment". In second and third paragraphs before word "detention" insert the word "civil". In second paragraph, after words "communicate immediately" add words "and assuming any time".

(*j*) Article 9. At the end of this article, insert Foreign Office addition, namely, the sentence: "similar areas in accordance with local conditions at each port will be reserved at Tientsin, Hankow, and Canton, within which this agreement will not be applicable".

(*k*) Article 10. At the end of this article insert the following sentence: "Nothing in this article shall be interpreted, however, as limiting the present authority of the Chinese Maritime Customs with respect to American vessels." This seems desirable, for otherwise the Chinese might claim that we were limiting an already existing right.

(*l*) Article 11. In second sentence, after words "American companies, firms", insert word "partnerships," which was accidentally dropped in the original draft.

(*m*) Should our interested colleagues make any inquiries we propose to refer them to our respective Governments for information regarding latest developments."

For the Minister:  
PERKINS

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793.003/337 : Telegram

*The Secretary of State to the Ambassador in Great Britain (Dawes)*

WASHINGTON, May 3, 1930—3 p. m.

113. Department's 104, April 23, 5 p. m.<sup>27</sup> Following telegram is being sent to Peiping:

"After further study Department considers that in revised draft Article 5 all but first sentence is of doubtful desirability. Remainder of article was intended to cover those comparatively rare cases in which purely temporary detention in civil cases may appear warranted as necessary to prevent removal of bank deposits, merchandise, et cetera, in litigation. It is feared, however, that adoption of such provisions would in all probability be followed by abuses in application, and the Department is accordingly considering deleting them.

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<sup>26</sup> Group doubtless garbled in transmission; Department's revised draft, article 5, reads "misdemeanor" (see p. 430).

<sup>27</sup> Not printed; it quoted the revised draft of April 9, 1930, p. 426.

If first sentence only is retained in submitting this draft to Chinese, they will probably suggest more and the matter could then be made subject to discussion.

American Ambassador at London and British Embassy are being informed."

You may inform Foreign Office.

STIMSON

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793.003/349 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 8, 1930—2 p. m.

[Received May 8—10:10 a. m.]

316. Legation's 304, May 3, 2 p. m. Following from the Minister:

"British Minister showed Shigemitsu<sup>28</sup> draft. He has now asked me for copy, and I am having copy of redraft made to give to him although I suggested that his Foreign Office obtain one by inquiry at Washington."

For the Minister:

PERKINS

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793.003/349 : Telegram

*The Secretary of State to the Consul General at Shanghai  
(Cunningham)*

WASHINGTON, May 8, 1930—7 p. m.

159. Following for Minister: Legation's 316, May 8, 2 p. m.

Department refers to Legation's 226, March 28, 9 a. m., paragraph 1; Legation's 245, April 3, 3 p. m.; to Department's 137, April 19, 6 p. m., paragraphs 1 and 3, and Legation's 304, May 3, 2 p. m., final paragraph (M). In view of developments indicated in the above references, the Department has assumed that discussion of the Department's latest draft is confined for the present to American and British officials. Department invites attention particularly to final paragraph (M) of Legation's 304. Defer action until further instructed.

STIMSON

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<sup>28</sup> Japanese Chargé in China.

793.003/349 : Telegram

*The Secretary of State to the Consul General at Shanghai  
(Cunningham)*

WASHINGTON, May 9, 1930—1 p. m.

Following for the Minister: Department's 159, May 8, 7 p. m.

Department suggests that unless it be embarrassing to you communication of copy of draft to Shigemitsu be by British Minister rather than by American Minister.

STIMSON

793.003/358 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 14, 1930—6 p. m.

[Received May 14—10:20 a. m.]

335. Legation's 326, May 13, 11 a. m.<sup>29</sup> Following dated May 13, 11 a. m., from the Minister:

"Department's 159, May 8, 7 p. m. As I had already promised Shigemitsu copy of redraft I felt that I had to make good my promise and I therefore gave to him a copy on May 12."

For the Minister:

PERKINS

793.003/374½

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*

[WASHINGTON,] May 15, 1930.

The Chinese Minister called and, after some moments of conversation on the subject of the Conference at The Hague on Codification of International Law, raised the question of negotiations on the subject of extraterritoriality. This conversation covered a period of some forty minutes.

The outstanding points were (1) statement by Mr. Hornbeck that since the return of the Secretary of State from London, the Secretary had been compelled to give a great deal of attention to matters pertaining to the treaty signed at London, and, Mr. Hornbeck had not found it practicable as yet to bring to the attention of the Secretary the problem of negotiations on extraterritoriality. Mr. Hornbeck felt that it would not be desirable to lay before Dr. Wu any new materials until it had been possible for him (Hornbeck) to talk with the

<sup>29</sup> Not printed.

Secretary. To this Dr. Wu replied that he would like to begin at the point at which the conversations had arrived before he went to The Hague, continuing with informal discussions between himself and Mr. Hornbeck. Mr. Hornbeck said that it would be necessary for him (Hornbeck) first to have some further instructions.

Second, in the course of the discussion of the difference between the Chinese Government's desire for "immediate abolition" of extraterritoriality and the American Government's statement that it was willing to negotiate a treaty for "gradual abolition", Dr. Wu made the statement that the Chinese Government had at no time agreed to the principle of "gradual abolition". Mr. Hornbeck stated that it had been the understanding of the Department of State that, in holding conversations on the subject subsequent to the communications to the Chinese Government of the American Government's statements of August 10 and November 1, 1929,<sup>30</sup> Dr. Wu had assented to that principle, and Mr. Hornbeck referred to Assistant Secretary of State Johnson's reference to that principle in the last conversation held between Mr. Johnson and Dr. Wu.

Third, Dr. Wu stated that, no matter with what governing authorities in China a foreign government concluded a treaty on the subject of extraterritoriality, the treaty would be one to which all of China would be a party for the reason that all of China was of one mind on this subject. Mr. Hornbeck referred to the action taken by the present authorities at Peking warning foreign governments that they should not enter into agreements with the Nanking Government. This action, he said, was comparable to the action taken by the Nanking (at that time Canton) Government in 1926 warning the Powers not to make agreements with the Peking Government;<sup>31</sup> and it might in a way compare with the action taken by Dr. Wu Ting-fang in 1911 warning the foreign Powers not to give any financial or other aid to the Manchu Government.<sup>32</sup> Dr. Wu said that the North had apparently learned a great deal from the South.

The conversation closed with an understanding that when he found it possible to resume conversations on the subject of extraterritoriality Mr. Hornbeck was to inform Dr. Wu.

<sup>30</sup> See telegram No. 254, August 1, 1929, to the Minister in China and telegram No. 958, November 4, 1929, from the Minister, *Foreign Relations*, 1929, vol. II, pp. 596 and 616.

<sup>31</sup> See note of July 14, 1926, from the Chinese Acting Minister for Foreign Affairs at Canton to the American Consul General, *ibid.*, 1926, vol. I, p. 844; and telegram No. 522, October 31, 1926, from the Chargé in China, *ibid.*, p. 683.

<sup>32</sup> See undated telegram from the Minister for Foreign Affairs of the Revolutionary Government, received in the Department December 13, 1911, *ibid.*, 1912, p. 106.

Dr. Wu went directly from Mr. Hornbeck's office to the Secretary's office (Note: This was diplomatic day, Dr. Wu said that he was going to pay his respects to the Secretary).<sup>33</sup> A half hour later the Chinese Legation called the Far Eastern Division on the phone and stated that Dr. Wu wished to speak with Mr. Hornbeck—would Mr. Hornbeck please call back on the phone. Ten minutes later FE phoned the Legation and Dr. Wu had gone out. In the afternoon, Dr. Wu spoke with Mr. Hornbeck on the phone and stated that he had had a conversation with the Secretary, the question of extraterritoriality had come up, and the Secretary had said that he wished that the matter be proceeded with as before by means of informal conversations between Dr. Wu and Mr. Hornbeck. He (Dr. Wu) therefore hoped that Mr. Hornbeck would be ready to begin again without awaiting conference with the Secretary.

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793.003/359

*Memorandum by the Secretary of State of a Conversation With the Chinese Minister (C. C. Wu)*

[WASHINGTON,] May 15, 1930.

Minister Wu called to renew relations. He said he had been talking over certain particular matters with Dr. Hornbeck, and had discussed extraterritoriality with him in a tentative way during my absence. He wanted to know whether he should continue. I said to go ahead and Dr. Hornbeck would take it up with me.

H[ENRY] L. S[TIMSON]

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793.003/361

*The British Counselor of Embassy (Campbell) to the Chief of the Division of Far Eastern Affairs (Hornbeck)*

WASHINGTON, May 16, 1930.

DEAR DR. HORNBECK: We have now received the observations of the Foreign Office on the revised draft agreement on extraterritoriality, the text of which you were good enough to communicate to me under cover of your letter of April 17th. They have also had in view the comments on Article 5 of the revised draft contained in the memorandum enclosed with your letter to me of May 2nd.<sup>34</sup>

On the enclosed sheet are set forth certain suggested amendments to the text of the revised draft, based mainly on the agreed comments

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<sup>33</sup> See memorandum *infra*.

<sup>34</sup> Letter of May 2 not printed; the memorandum under reference contained substance of first two paragraphs of a telegram sent to the Minister in China (see telegram No. 113, May 3, 1930, to the Ambassador in Great Britain, p. 439).



of the American and British Ministers to China. The Foreign Office would be glad to learn whether these amendments are acceptable to the State Department and also what procedure the latter propose to adopt when the final version of the draft is ready.

The Foreign Office agree generally with the criticism made by Sir M. Lampson that while it may be good tactics to ask for more than we expect to get, the draft as it now stands, reserving important areas round Shanghai, Tientsin, Hankow and Canton, retaining criminal jurisdiction and claiming co-judges and right of evocation etc., may be somewhat too unpalatable to the Chinese. The Foreign Office would therefore be glad to learn what are the views of the State Department on the proposal put forward by Sir M. Lampson to insert in Article 1 a provision for the future transfer by agreement of criminal jurisdiction and his suggestion that the penultimate paragraph of this article dealing with the language of the courts be deleted. The stipulation in the corresponding sentence in the penultimate paragraph of Article 2, that where foreigners are plaintiffs or complainants the files of the proceedings must be in English and Chinese, is more drastic than the practice that obtains under full extraterritoriality and should, it would seem, also be deleted.

While the Foreign Office are inclined also to agree with Sir M. Lampson's view that the negotiations are unlikely to proceed on satisfactory lines until we reach the basis of offering to give up criminal jurisdiction in return for evocation and co-judges, they are prepared to take, at any rate in the first instance, the same stand as the United States Government in this matter. There would seem, however, to be some danger that if His Majesty's Government do not believe in retaining criminal jurisdiction, but do so in order to keep in line with the United States Government, while the latter do not believe in demanding co-judges, but do so in order to keep in line with His Majesty's Government, the Chinese may be quick to see the weakness of our position with the result that we may both lose both criminal jurisdiction and co-judges. The Foreign Office have asked us to draw the attention of the State Department to this aspect of the matter.

Yours sincerely,

RONALD CAMPBELL

[Enclosure]

*Suggested Amendments to the Revised Draft Agreement*

*Preamble.*

In 2nd paragraph, after "regulations" insert "not including however Chinese laws of procedure whether civil or criminal."

*Article 1.*

First sentence to read: "Except in criminal cases other than minor offenses indicated below and as, etc." (see also paragraph 3 of covering letter).

*Article 2.*

Delete "or accused" in two places. For "port" read "place."

*Article 3.*

After "taxation only as is" insert "actually paid by all Chinese citizens and is." Insert a new sub-section:

"(d) that tax agreements entered into with American Merchants, firms, partnerships and companies will be duly respected."

Present sub-sections (d) and (e) would then become (e) and (f).

*Article 5.*

In the 1st paragraph, after "in which case" insert "if act is punishable by a fine of more than \$10 or by detention or imprisonment."

(It is understood that the State Department are considering the deletion of all but the first paragraph of this article. The Foreign Office agree that this might be an improvement and that these and similar safeguards in the Peking agreed draft might be reserved for adoption in case it is decided to offer to surrender criminal jurisdiction.)

*Article 9.*

Add the following sentence:—

"Similar areas in accordance with local conditions at each port will be reserved at Tientsin, Hankow and Canton within which this agreement will not be applicable."

*Article 10.*

In paragraph 2 delete "described in this agreement" and insert "in which special chambers have been established in accordance with Article 2 of this agreement." At the end of the last paragraph add the following sentence: "Nothing in this article shall be interpreted, however, as limiting the present authority of the Chinese maritime customs with regard to American vessels."

*Article 11.*

In the second sentence after "firms" insert "partnerships".

793.003/361

*The Secretary of State to the Minister in China (Johnson)*

No. 137

WASHINGTON, June 9, 1930.

SIR: Referring to the Department's instruction No. 96 of April 28, 1930, and to subsequent telegraphic exchanges between the Department and the Legation concerning the revision of the draft prepared by you and the British Minister in reference to a plan for the gradual relinquishment of extraterritorial jurisdiction in China, there are enclosed for your information, copies, in duplicate, of the draft as revised to June 4, 1930.<sup>35</sup> This draft is based on the draft of April 9,<sup>36</sup> a copy of which was transmitted to you under cover of the Department's instruction of April 28, and includes a number of amendments based upon the suggestions made in your telegram No. 304 of May 3, 2 p. m., as well as certain changes suggested by the British Government in a letter addressed to the Department by Mr. Campbell of the British Embassy under date of May 16. Copies of this letter and its enclosure are enclosed,<sup>37</sup> together with a copy of the Department's reply of today's date.<sup>38</sup>

A comparison of the new draft with the draft of April 9 will show deletions from the earlier draft as follows:

1. The penultimate paragraph of Article 1 which provided that the spoken and written languages to be used in the special courts for the trial of American citizens should be both English and Chinese. The Department agreed with your view and that of the British Minister as expressed in section "e" of your telegram No. 304, May 3, 2 p. m., and the deletion has been made accordingly.

2. Certain words of the first sentence of the third paragraph of Article 2 as follows: "which to this end shall be both in English and Chinese". These words referred to the files of the proceedings of the special courts and their deletion was made necessary by the deletion of the penultimate paragraph of Article 1 referred to above.

3. The second to sixth paragraphs, inclusive, of Article 5 in the April 9 draft, which referred to the arrest, detention and trial of American citizens. The provisions in these deleted paragraphs were included in the earlier draft with a view to safeguarding American citizens in those comparatively rare cases in which purely temporary detention in civil cases might appear warranted as necessary to prevent the removal of bank deposits, merchandise, et cetera, in litigation. The Department after further consideration decided that the adoption of these provisions would in all probability be followed by abuses in application, and the paragraphs in question have accordingly been

<sup>35</sup> Not printed; for final text of agreement handed to the Chinese Minister October 28, see p. 472. Changes from the June 4th draft are noted in telegram No. 375, October 29, to the Minister in China, p. 480.

<sup>36</sup> *Ante*, p. 426.

<sup>37</sup> *Supra*.

<sup>38</sup> Dated June 10, 1930, *infra*.

deleted. In this connection you are referred to the notification contained in the Department's telegram No. 154 of May 3, 3 p. m., to the Legation.<sup>39</sup>

Among the additions made to the April 9 draft, the following are brought particularly to your attention:

1. The addition to the third paragraph of the preamble of a stipulation in regard to the time when the agreement may be ratified as follows:

"and when the National Government shall have demonstrated its ability to give effect throughout China to the terms of this agreement."

2. The addition to Article 16 in reference to ratification and duration of the proposed agreement of a provision in regard to future consideration of the matter of the relinquishment of criminal jurisdiction as follows:

"After a period of not less than five years from the date of ratification of this agreement, in which period the workings of the special courts trying civil cases involving American citizens have been carefully observed, especially in reference to the demonstrated freedom of the courts from administrative interference by the military and/or other non-judicial authorities, the matter of the extension of Chinese jurisdiction over American citizens in other than civil cases shall receive further consideration, the action to be taken in this respect to be determined in the light of experience of the actual working out of the present provisions regarding civil cases."

While this paragraph might properly constitute a separate article in the draft, it is believed that its inclusion under the heading which you have suggested for the final paragraph will render somewhat less conspicuous this provision which, dealing as it does with one of the chief points at issue, will in all probability be strongly opposed by the Chinese.

Throughout the present draft, the term "national of the United States of America" has been substituted for the term "American citizen" which has been used in previous drafts when referring to nationals of the United States.

The several amendments of the April 9 draft made in response to your telegram No. 304 of May 3, 2 p. m., and/or to the British Embassy's letter of May 16 have not been specifically referred to in this instruction but, for your convenience in reference, all alterations made in the draft of April 9 have been indicated in the enclosed draft by underscoring in red ink.

Copies of the revised draft are being supplied to the American Ambassador in London and to the British Ambassador here for their in-

<sup>39</sup> Not printed; see telegram No. 113, May 3, to the Ambassador in Great Britain, p. 439.

formation. An extra copy of the draft is enclosed for transmittal at your discretion to your British colleague.

The Department invites any comments and suggestions which at this stage you may feel moved to make.

I am [etc.]

For the Secretary of State:  
FRANCIS WHITE

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793.003/361

*The Chief of the Division of Far Eastern Affairs (Hornbeck) to the  
British Counselor of Embassy (Campbell)*

WASHINGTON, June 10, 1930.

DEAR MR. CAMPBELL: Referring further to your letter of May 16 and enclosure suggesting certain amendments to the State Department's revision of draft plans earlier considered for the gradual relinquishment of extraterritoriality, the receipt of which was acknowledged in my letter of May 24,<sup>40</sup> I desire to make the following comments:

The enclosure with your letter contains suggestions of the British Foreign Office for certain amendments and you state that the Foreign Office would be glad to learn whether these are acceptable to the State Department. In reply, I may say that the Department is favorably disposed toward such amendments with the exception of the suggested amplification of Article 9 to provide for the exemption from the application of any extraterritoriality agreement of areas within fifty li from the present customs houses at Tientsin, Hankow and Canton. The suggestion for this amendment, as an amendment suggested by the British Foreign Office, was transmitted to the Department in a telegram sent by the American Minister on May 3 from Nanking. However, by reference to the first sentence of the third paragraph of your letter of May 16, it appears that the Foreign Office and Sir Miles Lampson now look upon such a proposal as one among the possible proposals which "may be somewhat too unpalatable to the Chinese." The Department is of the same view and is inclined to believe that Article 9 as drafted in the Department's revised draft transmitted to you under cover of my letter of April 17 is probably as satisfactory a proposal, in reference to Shanghai and foreign administered areas, as might be presented to the Chinese with the hope that it would be accepted by them. The American Government would not be able to make proposals with regard to Tientsin, Hankow and Canton; but the Department realizes that the British Government might with warrant wish to make some proposals with regard

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<sup>40</sup> Not printed.

to areas at those ports, especially Tientsin, similar to the proposal which the American Government favors making in reference to Shanghai.

The verbal changes suggested in the two pages of memoranda enclosed with your letter seem acceptable to the Department, and changes in accordance therewith have been made in the Department's "working copy" of the draft.

In the second sentence of the third paragraph of your letter under acknowledgment, you request the "views of the Department on the proposal put forward by Sir M. Lampson to insert in Article 1 a provision for the future transfer by agreement of criminal jurisdiction." It is assumed that this refers to a proposal which has been made in correspondence between Sir M. Lampson and the Foreign Office. The Department has not had from any source an indication of the suggested terms of such a provision. I should be pleased to have, if possible, information indicating the possible text of such a proposal.

With regard to the penultimate paragraph of the revised draft of Article 1, which provides that the spoken and written languages used in the special courts for the trial of cases involving American citizens shall be Chinese and English, the Department is in full agreement with the view of the Foreign Office that this stipulation should be deleted and in the "working copy" of the draft now under consideration by the Department the paragraph in question has been deleted.

The final paragraph of your letter refers to the matter of the relinquishment of criminal jurisdiction in exchange for provisions for evocation and for foreign co-judges. It is noted that, whereas in the earlier conversations between Sir M. Lampson and Dr. C. T. Wang (as set forth in your Embassy's *aide-memoire* of March 4) the British Minister maintained that the relinquishment of criminal jurisdiction was out of the question, the British Government is inclined to share the view now held by Sir M. Lampson that criminal jurisdiction should be relinquished in exchange for provisions for evocation and for foreign co-judges to function in cases involving British subjects. The Department's view of the general situation and problem is now substantially as it was as expressed to you in my letter of April 17. It is remembered, however, that the British Minister has informed the American Minister that Wang Chung-hui has stated positively that he will not agree to the appointment of co-judges; it is understood that Sir M. Lampson has quoted Wang as saying "any other guarantee but that"; and, the apparent attitude of Dr. C. T. Wang in regard to this same proposal, as reported by Sir M. Lampson, was mentioned in my letter of April 17.

In the concluding sentences of your letter you state that the British Government is prepared to take "at any rate in the first instance, the same stand as the United States Government" in asking for criminal jurisdiction, evocation and co-judges, and that the Foreign Office has asked you to call the attention of the State Department to the danger that in the attempt to keep in line with each other while differing as to the relative desirability of retention of criminal jurisdiction and of obtaining a provision for co-judges, the British and the American Governments stand a chance of losing both. I can assure you that the Department has not failed to apprehend that possibility. It will be remembered that, with reference to the draft now under consideration, as with reference to all previous drafts, the Department has indicated that what it has put forward is tentative; also, that in conversations and in written communications I have informed you, from the outset, of the Department's doubt whether it can be considered likely that the Chinese can be persuaded to assent to the principle of evocation or to provision for co-judges. Confronted as we are with the difference in emphasis between the British and the American Governments, and with indications, such as have been referred to above, of substantial objection on the part of the Chinese to the idea of co-judges, I do not see what better we can do than include in our drafts all three of these measures, hope to propose all three to the Chinese, and thereafter, when the Chinese reaction shall have given us more light as to the possibilities, shape our courses accordingly.

I am sure that you will realize, both from what has been said above and by reference to previous communications, that, among the three proposals, we here attach most importance, value and likelihood of acceptance by the Chinese being considered, to the proposal for retention of criminal jurisdiction.

Note is made of your reference to the desire of the Foreign Office for information in regard to the procedure which the Department proposes to adopt when the final version of the draft is ready. The best I can do at this time by way of reply is to say that the Department is giving consideration to that question.

There are enclosed for your information, a copy of the draft as revised to date,<sup>41</sup> together with an excerpt from the Department's despatch transmitting copy of the revised draft to the Legation.

Yours sincerely,

STANLEY K. HORNBECK

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<sup>41</sup> June 4 draft not printed; see instruction No. 137, June 9, to the Minister in China, *supra*.

793.003/375a

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*<sup>42</sup>

I feel that I should refer again to statements which have been made in previous communications indicating the views of the Department with regard to the relative merits of proposals for retention of criminal jurisdiction and proposals for creation of co-judges; and that I should reiterate that it is our opinion that the Chinese will make less opposition to the former than to the latter. I should also state that the Department does not set great store by the proposal, viewed on the basis of intrinsic merits, with regard to evocation. Of the three points, the Department, giving consideration both to possible usefulness and to likelihood of acceptance by the Chinese, looks upon the proposal for retention of criminal jurisdiction as the most important.

793.003/375b

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*<sup>42</sup>

I can give no assurance that the Department will make to the Chinese proposals in form and substance conforming to this draft. The Department has not yet definitely decided what it will propose or when it will make proposals or by what procedure. All of these points are under consideration. The Department is definitely of the opinion that retention of criminal jurisdiction and the maintenance of various safeguards are essential points.

793.003/376

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck) of a Conversation Between the Secretary of State and  
the Chinese Minister (C. C. Wu)*

WASHINGTON, June 12, 1930.

The Chinese Minister had apparently reported to the Secretary upon the conversation which the Minister had had with Mr. Hornbeck on June 10, in the course of which Mr. Hornbeck had informed the Minister that the Department had been working for some time on a new draft but was not yet ready to submit anything as a proposal for the Minister's consideration, that the subject was still being

<sup>42</sup> Notation on file copy, June 10, 1930: "Handed to Mr. Huxley (who was acting for Mr. Campbell) as memo of statements made orally."



studied, that the Department was conferring with Mr. Johnson, and that it might be some time before we would be in position to make any new move in the conversations between the Minister and Mr. Hornbeck.

Dr. Wu had apparently proposed to the Secretary that conversations be resumed at an early date.

In the conversation which ensued, the Secretary explained to Dr. Wu that he had not been in position for some time to give the question of these negotiations careful thought and that he hoped soon, when questions with which he was now occupied were out of the way, to go on a vacation. He said that we were conferring with Mr. Johnson and that we found it desirable to know what the other powers most concerned were doing about the question. He said that we were working on a problem with regard to which there was common interest and that we had to study it as such. We had no territorial holdings or special interest in China but in a place like Shanghai we were in a situation where the problem before others was also the problem before us. We had perhaps undertaken earlier to go ahead more rapidly than the nature of the problem warranted.

Dr. Wu asked whether the conversations between himself and Mr. Hornbeck might not continue. The Secretary inquired of Mr. Hornbeck what had been done in conversations between Dr. Wu and Mr. Hornbeck in the Secretary's absence. Mr. Hornbeck stated that a tentative draft of a portion of a plan, for study, had been put before the Minister in January<sup>44</sup> and that, upon the eve of the Minister's departure for The Hague in March, that document had been scrapped; that subsequently the Department had worked on a new draft,<sup>45</sup> the draft which Mr. Hornbeck had submitted to the Secretary some little while ago and which was now on the table. Dr. Wu asked whether this draft might not be given to him and be made the subject of discussion. Mr. Hornbeck said that the only thing which it would seem possible for him to submit at this time would be a collection of all the ideas which had at any time been discussed. He said that Dr. Wu had rejected various things which had been submitted and that the Department was not yet ready to come forward with anything so definite as to warrant its being made the basis for a new start. Dr. Wu said that he and Mr. Hornbeck might at least talk about the whole subject. Mr. Hornbeck said that there could be adopted very readily a new starting point, namely, that he remained ready, as at all times since the conversations began, to discuss any proposal or proposals which the Minister might wish to submit. The Secretary inquired whether Dr. Wu had at any time submitted proposals. Mr.

<sup>44</sup> See footnote 54, p. 363.

<sup>45</sup> *Ante*, p. 426.

Hornbeck said that he had—upon one occasion.<sup>46</sup> The Secretary remarked that he believed the proposal referred to had been a proposal that extraterritoriality be abolished. Dr. Wu assented.

The conversation continued for some time, the Chinese Minister pressing for an assurance on the part of the Secretary that attention would be given the matter in the near future or that the conversations would be resumed. The Secretary said that he would talk with Mr. Hornbeck later on the subject. The Secretary said that he must excuse himself as he had another engagement elsewhere in a few moments and as he had said all that he was in position to say just now on this subject.

S[TANLEY] K. H[ORNBECK]

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793.003/386 : Telegram

*The Acting Secretary of State to the Ambassador in Great Britain  
(Dawes)*

WASHINGTON, August 5, 1930—noon.

194. Reference Department's mail despatch 395, June 12, 1930.<sup>47</sup> Peiping quotes news despatch, Reuter, London, August 1, stating that in reply to questions in the House, Dalton, Under Secretary, said British Government had nearly completed consideration of proposals on extraterritoriality drawn up by Lampson, British Minister, and that "the Government hoped to communicate the proposals shortly to the Chinese Government".

Johnson, in memorandum of conversation with Lampson dated May 1, states that Lampson intimated that he would spend month of September at Nanking for the purpose of negotiating on question of extraterritoriality, although no one in Nanking Government seemed, at that time, inclined to press the question of extraterritoriality.

You are instructed to approach the Foreign Office and, referring to Hornbeck's letter to Campbell<sup>48</sup> and conversations with Huxley, June 9 and 10, inquire (a) whether Foreign Office has any comments to make, (b) whether it is true that British Government expects shortly to communicate proposals to the Chinese Government, (c) whether Foreign Office would be willing to agree that neither British nor American Government should present proposals without two weeks previous notification to the other Government.

You will inquire whether Foreign Office or Lampson have discussed Department's latest draft, dated June 4, with Japanese. You will say that Department has not as yet done so. You will state that

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<sup>46</sup> See counterproposal of December 26, 1929, from the Chinese Legation, *Foreign Relations*, 1929, vol. II, p. 661.

<sup>47</sup> Not printed.

<sup>48</sup> Dated June 10, 1930, p. 448.

Department now contemplates giving copies to Japanese and Netherlands representatives and would welcome any comment Foreign Office may feel disposed to make.

In case Foreign Office states or intimates that it intends to proceed with the matter at Nanking "shortly" you will inquire on what basis Foreign Office believes that any useful purpose will be served by doing so at this time.

Please reply by telegraph.

CARR

793.003/389 : Telegram

*The Ambassador in Great Britain (Dawes) to the Secretary of State*

LONDON, August 7, 1930—noon.

[Received August 7—10:20 a. m.]

173. Department's 194, August 5, noon, regarding statement by Dalton, Undersecretary, on negotiations with Chinese Government on extraterritoriality.

Foreign Office states that British Government through Lampson had informed Chinese Government last week of July that, as Lampson has already stated, his intention is, subject to political contingencies in China, to spend most of September in the south in order to continue discussions already begun on various outstanding questions including that of extraterritoriality; that the British Government has now nearly completed its study of the draft agreement; that Lampson expects [to] receive detailed instructions before his departure for Nanking, and that he hopes to make such progress as the general political situation in China will permit.

Foreign Office further stated that June 4th draft has not been discussed here with the Japanese. Foreign Office does not know whether Lampson has done so but thinks it likely he has. The Foreign Office has given copies of the draft in confidence to the Italian Embassy and Norwegian Legation here at their request. It expects to be approached by the Dutch Legation and will give a copy, if requested, as it would do to any other interested Government.<sup>49</sup>

The proposal (c) of Department's telegram referred to is being taken under consideration by the Foreign Office and I expect their decision in this regard today.

DAWES

<sup>49</sup> In telegram No. 187, August 16, 1930, the Ambassador in Great Britain reported the explanation of the British Foreign Office that the draft given to representatives of other governments was not the Department's draft of June 4 but was the Johnson-Lampson draft (see telegram No. 226, March 28, from the Minister in China, p. 418). The June 4 draft had been shown only to the Italian Ambassador, apparently sometime after August 1. (793.003/392.)

793.003/390 : Telegram

*The Ambassador in Great Britain (Dawes) to the Secretary of State*

LONDON, August 7, 1930—5 p. m.

[Received August 7—2 p. m.]

175. My 173, August 7, noon, regarding Department's 194, August 5, noon, third paragraph, beginning at (a). Foreign Office understands the position and regards it as satisfactory.

With regard to proposal (c) I am now informed by Foreign Office that the British Government agrees that neither British nor American Government should present proposals without 2 weeks' previous notifications to the other Government. Lampson is being instructed to give such notice directly to Johnson should it be necessary.

With regard to penultimate paragraph, Department's 194, Foreign Office states officially:

"We are committed by our promises to negotiate on the subject of extraterritoriality. We therefore judge it desirable the [to?] maintain the attitude that so far as we are concerned we are prepared to continue the negotiations at any time, but of course we fully realize that the rate of progress may be considerably affected by political conditions in China."

DAWES

793.003/390 : Telegram

*The Acting Secretary of State to the Ambassador in Great Britain (Dawes)*

WASHINGTON, August 9, 1930—2 p. m.

197. Your 173, August 7, noon, and 175, August 7, 5 p. m.

1. Department has carefully noted contents and has informed American Minister, China, thereof.

2. Department understands that it is now agreed that neither British nor American Government will present proposals to the Chinese without having given two weeks' previous notification to the other, and that this notification may be exchanged through our respective Ministers in Peiping; but Department does not understand that this necessarily involves giving notice to any other Governments.

3. Department is surprised that British Government has communicated copies of draft of June 4 to other Governments without either consulting or notifying American Government. Department intends now to communicate copies in confidence to Japanese and Netherland representatives here and is authorizing American Minister, Peiping, to communicate copies in confidence to his colleagues of those nationalities. Department will communicate copies to any other interested representatives who may make request for them.

CARR

793.003/390 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, August 9, 1930—2 p. m.

269. Department's 262, August 5, noon.<sup>50</sup>

[Here follows summary, in four numbered paragraphs, of telegraphic exchange of views between August 7 and 9 with the Embassy in Great Britain.]

5. In response to request made, at instance of the Department, for comment on Hornbeck's letter to Campbell<sup>51</sup> and conversations with Huxley, June 9 and 10 (see mail instructions 137, June 9, and 149, June 23<sup>52</sup>), Foreign Office states that it "understands the position and regards it as satisfactory". Department deems this vague.

6. In reply to inquiry as to basis on which Foreign Office believes that any useful purpose will be served by negotiating in the near future, Foreign Office states that it is committed by its promise to negotiate; that it therefore judges it desirable to maintain the attitude that it is prepared to continue the negotiations at any time; but that it fully realizes that the rate of progress may be considerably affected by conditions in China.

7. Department has taken no step in nature of negotiation with Chinese Minister here since March. Dr. Wu plans to leave here for trip to Geneva at end of this month, August. This will make it impossible to negotiate here during month of September.

[Paraphrase.] On this account and since conditions in China in the near future are, apparently, completely uncertain, consideration is being given by the Department to a possible proposal to the British Government that neither the British nor the American Government take any further initiative until, say, October of this year, when it might be practicable, if the political situation in China allows, to submit proposals, as per the June 4th draft, to the Chinese authorities simultaneously at London and Washington and by you and your British colleague and possibly by your Japanese colleague in China. In partial explanation of this rather unusual conception of procedure, the Department offers for your consideration that it has in mind the fact that it knows that, although it is committed to negotiate with the Chinese Minister here, and while this Government has ample facilities to communicate by telegraph, the Chinese Government and its Legation in Washington are very limited in their facilities. You are requested to comment, especially on the paragraph above. [End paraphrase.]

CARR

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<sup>50</sup> Not printed.

<sup>51</sup> Dated June 10, 1930, p. 448.

<sup>52</sup> Latter not printed.

793.003/391 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

[Extract]

PEIPING, August 14, 1930—5 p. m.

[Received August 15—4:30 a. m.<sup>53</sup>]

698. [Paraphrase.] Your 269, August 9, 2 p. m., last paragraph. I approve the Department's proposal to postpone the formal initiating of negotiations respecting extraterritoriality. [End paraphrase.]

JOHNSON

793.003/393 : Telegram

*The Acting Secretary of State to the Chargé in Great Britain (Atherton)*

[Paraphrase]

WASHINGTON, August 21, 1930—7 p. m.

214. Referring to the Department's 197, August 9, 2 p. m., and to the Embassy's 187, August 16, 11 a. m., and 190, August 19, 1 p. m.<sup>54</sup>

(1) Copies of the June 4th draft have now been given in confidence by the Department to the Japanese and Netherland Missions in Washington.

(2) With appreciation the Department notes the statements by the Foreign Office regarding the giving of two weeks' notice and the explanation concerning the communication hitherto of copies of the drafts.

(3) There is no objection on the part of the Department to frank communication with other Governments interested, provided that always it shall be made clear that no commitment has been made by the American Government, regarding the action it may take, except to give notice as agreed.

(4) You may inform the Foreign Office of the foregoing.

(5) You should state to the Foreign Office that, after duly considering all information lately available from China, the Department considers the political and military situations to be very uncertain still; that there appears to be substantial ground to doubt the Nanking Government's ability to represent more than three or four provinces; that there appears to be no political authority able to give adequate protection to foreign lives and property; and that, within the area which the Nanking Government nominally controls, bandits and other

<sup>53</sup> Telegram in three sections.

<sup>54</sup> Embassy telegrams not printed.

predatory armed forces are destructively operating. Although the possible strengthening of the Nanking Government's position soon is suggested by the most recent developments, it is doubtful that achievement of anything approximating stability is likely at best within several weeks. On this account the Department is of the opinion that to attempt serious negotiation at the present time is little, if at all, warranted and that the tendency to menace lives and property of foreigners may be increased if publicity is given at this moment in China to the idea of modification of the treaty status of foreign nationals. The Department wishes to suggest, therefore, that no initiative be taken with the Chinese by either the British or the American Government in the matter of extraterritoriality negotiations prior to, say, October. If the Foreign Office assents to such an undertaking, the latter would naturally be subject to termination after either Government had given the other two weeks' notification.

(6) You should say that, like the British Government, the American Government is committed to negotiate on this subject with the Chinese and that the American Government does not desire in any way to evade its commitment or to delay action unduly. It is felt by the Department that before the end of the current year negotiations should be well under way and that any thought by the Chinese of a resort to such drastic action as unilateral action in definitely denouncing extraterritorial rights should be forestalled. If, therefore, any question is raised by the Chinese, they should be informed that the desire for delay is based upon the assumption of their Government's being preoccupied with matters of immediate urgency and that assent will be given should they insist upon negotiations being begun at once. In the Department's opinion, however, no such contingency is likely to arise.

(7) In case you deem it advisable, the following may be added by you: (a) The Chinese Minister here has informed the Department of his expected absence during September at Geneva; and (b) in the Department's view, this implies that the Chinese Government, which is otherwise occupied, does not expect to press the extraterritorial issue during the next few weeks.

(8) The Department is reporting the foregoing to the American Minister at Peiping with instructions that he discuss the subject with his British colleague. You should inform the Foreign Office.

CASTLE

793.003/403 : Telegram

*The Chargé in Great Britain (Atherton) to the Secretary of State*

LONDON, August 30, 1930—2 p. m.

[Received August 30—11:40 a. m.]

206. Foreign Office has handed me following memorandum in reply to oral representations based on Department's telegraphic instruction 214, August 21, 7 p. m., paragraph (5), and following:

"We agree with the State Department's views with regard to the general political situation in China and we also agree that it is desirable to forestall any move on the part of the Chinese Government towards unilateral abolition of extraterritoriality by embarking on definite negotiations at an early date. We do not however anticipate that there will be any substantial change in the political situation in the immediate future and we doubt whether any risks that might be involved in resuming negotiations on the subject of extraterritoriality would be appreciably greater in September than in October or at any later date before the end of the year.

Lampson is definitely committed to resume the discussions in September and, after consulting Lampson, we are of opinion that it would be difficult to justify, vis-à-vis the Chinese Government, refusal to implement his repeated declarations to that effect. In these circumstances it seems to us that a greater risk would be involved in refusing to resume the discussions in September than in carrying out our original program. Lampson has arranged to leave for the south on September 5th, and it is anticipated that he will present the draft agreement for the abolition of extraterritoriality on or about the 8th of September."

ATHERTON

793.003/409

*The British Embassy to the Department of State*

## AIDE-MÉMOIRE

The final paragraph of Article 10 of the draft agreement on Extraterritoriality in China dated June 4th and forwarded by Mr. Hornbeck to Mr. Campbell in his letter of June 10th last reads:

"American commercial vessels in Chinese ports or coastal waters or rivers shall not be subject to restraint or to any form of commandeering, requisition, inspection or search, nor shall such vessels be boarded by Chinese police, military or other armed authority except by agreement with the captain of the vessel, or upon a warrant formally issued by a modern law court specifically citing by title and section the law under which such action is authorized. American commercial vessels shall not be compelled to carry Chinese troops, whether armed or unarmed, or Chinese military supplies. Nothing in this article shall be interpreted, however, as limiting the present authority of the Chinese Maritime Customs with regard to American vessels."



Sir M. Lampson will shortly present the draft agreement to the Chinese Government, as the United States Embassy in London were recently informed.

In the draft which Sir M. Lampson will present to the Chinese the final paragraph of Article 10 will read as follows:

"British commercial vessels in Chinese ports or coastal waters or rivers will as heretofore comply with such regulations as may be reasonably necessary for the prevention of fraud or smuggling. They will not however be subject to any form of commandeering or requisition nor will such vessels be inspected, searched, boarded or subjected to any kind of restraint by Chinese military or other armed authority except by agreement with the Captain of the vessel. They may not be boarded by Chinese Police nor may any person subject to the [criminal] <sup>55</sup> jurisdiction of Chinese Courts be arrested on board any such vessel except upon a warrant formally issued by a modern law Court specifically citing by title and section the law under which such action is authorized. In the absence of such a warrant Chinese Police may only board a vessel by agreement with the Captain. British commercial vessels will not be compelled to carry Chinese troops whether armed or unarmed or Chinese military supplies. In general, treatment accorded to British commercial vessels shall be in conformity with that accorded under recognised international practice by maritime nations to vessels of other countries in their ports and territorial waters."

The reasons for which the wording of this paragraph of Article 10 has been thus changed in the British draft are as follows:—As a result of Articles 21, 36 and 46 of the Treaty of Tientsin of 1858, <sup>56</sup> together with other treaty stipulations conferring extra-territorial privileges on British subjects in China, no Chinese officials, except those acting under the authority of the Chinese Maritime Customs, have hitherto been empowered to exercise any functions on board a British vessel in Chinese waters. This position however has been somewhat weakened in recent years by the fact that special bureaux have been organised to collect duties on and prevent the smuggling of certain articles—particularly opium and salt—which do not come under the cognisance of the Chinese Maritime Customs, and in view of the terms of Article 46 of the Treaty of Tientsin it is difficult to object to searches of vessels by the employees of these bureaux. The first sentence of the new British draft has been inserted to meet this situation. Difficulties have however arisen from the fact that the search parties sometimes consisted of bands of armed and undisciplined men, while in some parts of China, particularly in the Upper Yangtze, similar armed bands were sent on board British vessels by semi-independent generals with a view to extracting revenue from the various kinds of cargo

<sup>55</sup> Corrected on basis of letter of September 8 from the Counselor of the British Embassy to the Chief of the Division of Far Eastern Affairs (793.003/410).

<sup>56</sup> Treaty between China and Great Britain, signed on June 26, 1858; *British and Foreign State Papers*, vol. XLVIII, pp. 47, 51, 54, 56.

carried. Armed bands have also boarded British vessels for the purpose of arresting absconding criminals, political offenders or some persons suspected of having committed a crime on board the vessel. In these circumstances it appears desirable to His Majesty's Government that this practice of arbitrarily invading British vessels with armed parties—whether for the purpose of protecting the revenue or of arresting criminals—should be declared illegal. The new draft is designed to secure this desideratum. Provided this is secured it seems that the Chinese should have full power to adopt all reasonable means of protecting their revenue and that they should have the same power of arresting on board British vessels persons subject to the criminal jurisdiction of their courts as is enjoyed by other sovereign states under international law. The wording of the new draft is intended not to exclude this power. It does not however appear necessary to set out in the agreement any declaration of the rule under international law that the Chinese courts should not exercise jurisdiction in respect of matters which have no effect outside the British vessel in question, since it is believed that the Chinese would not show any desire to intervene in the case of offences affecting only the internal order and discipline of the vessel and that consequently it is improbable that difficulties will arise from this source.

The concluding paragraph of Article 10 in the draft of June 4th would appear to be open to the interpretation that it allowed the warrant of a Chinese "Modern Law Court" to run on board a British vessel without restriction. There is of course a wide practical recognition that a country should have no jurisdiction over a foreign vessel in its ports in matters which have no effect outside the vessel itself—exception being allowed to a certain degree in the case of specially scandalous crimes. It is a recognised practice not to interfere with the internal discipline of a ship unless the consequences of an offence committed on board extend beyond the ship itself. This principle was recognised at the recent conference at the Hague on the codification of international law<sup>57</sup> and it is not believed that the Chinese could raise any objection in principle to a suitably worded provision designed to safeguard this point. Accordingly the final sentence of the present revised draft has been added in order to ensure that British vessels shall receive the treatment generally accorded by maritime nations to the vessels of foreign flags.

It has further been deemed necessary to draw a clear distinction between "commandeering" and "requisition" on the one hand and "inspection", "search", "boarding" or any other form of "restraint" on the other; thus whereas the present draft contemplates certain conditions under which inspection, search, boarding or restraint by Chinese military or other armed authority could be tolerated, it is

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<sup>57</sup> Held from March 13 to April 20, 1930; see vol. I, pp. 204 ff.

the view of His Majesty's Government that British vessels should not be subject to commandeering or requisition by any Chinese authority. This is a recognised principle to which His Majesty's Government attach great importance. The wording of the second sentence of the enclosed draft is designed to make this point clear.

His Majesty's Government would be glad to learn whether the United States Government feel disposed to amend their draft to bring it into line with the new British draft.

WASHINGTON, 4 September, 1930.

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793.003/405 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 5, 1930—noon.  
[Received September 5—1:30 a. m.]

780. 1. I have had conference with Sir Miles Lampson who informs me that in regard to extraterritoriality he will leave here on September 5th, going directly to Nanking which he expects to reach on September 8th. He has been authorized to hand to C. T. Wang the draft of June 4th as embodying British proposals on the subject. He expects to remain in Nanking only about three weeks when he will return to Peiping. He does not expect to negotiate further on the subject of extraterritoriality but will of course be prepared to discuss any paragraphs of proposal that C. T. Wang may desire to question him on. It is his intention to lay draft before Wang on September 11th.

2. I suggest that simultaneously with presentation of draft by Sir Miles at Nanking the Department call in Chinese Chargé and hand to him draft stating that it is in all respects the same as draft of proposals which we understand British are making on that day to the Government at Nanking. (Sir Miles tells me that the only change will be the inclusion in British copy of draft of a formula which will extend to Tientsin, Canton and Hankow exemption from Chinese jurisdiction similar to that provided for Shanghai in article 9.)

3. I suggest that Department urge Japan make similar use of draft of June 4th. Sir Miles is urging his Government to press Japanese Government to present draft of June 4th.

4. I have shown this message to Sir Miles who is informing his Government to similar effect.

5. Gave copy of draft of June 4th to Oudendijk<sup>58</sup> yesterday. Sir Miles is giving copy French Minister and Japanese Legation.

JOHNSON

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<sup>58</sup> The Netherlands Minister in China.

793.003/409

*Tentative Redraft of the Final Paragraph of Article 10 of the Draft Agreement*<sup>59</sup>

" . . . commercial vessels in Chinese ports or coastal waters or rivers shall not be subject to any form of commandeering or requisition; nor shall such vessels be inspected, searched, boarded or subjected to any kind of restraint by Chinese military or other armed authority except by agreement with the captain of the vessel. They may not be boarded by Chinese police nor may any person subject to the jurisdiction of Chinese courts be arrested on board any such vessel except upon a warrant formally issued by a modern law court specifically citing by title and section the law under which such action is authorized. In the absence of such a warrant, Chinese police may only board a vessel by agreement with the captain. . . . commercial vessels shall not be compelled to carry Chinese troops, whether armed or unarmed, or Chinese military supplies. In general, treatment accorded to . . . commercial vessels in Chinese ports or coastal waters or rivers shall be in conformity with that accorded under recognized international practice by maritime nations to vessels of other countries in their ports or territorial waters. Nothing in this article shall be interpreted, however, as limiting the present authority of the Chinese Maritime Customs with regard to American vessels".

793.003/405 : Telegram

*The Acting Secretary of State to the Ambassador in Great Britain (Dawes)*

WASHINGTON, September 7, 1930—1 p. m.

225. Department is informed by Peiping that Lampson states he intends to lay draft on extraterritoriality before Wang on September 11.

Johnson, apparently with knowledge of Lampson, suggests that simultaneously with presentation of draft by Lampson at Nanking, Department hand to Chinese Chargé here a copy of draft stating that it is in all respects same as draft of proposals which we understand British are making on that day to Chinese at Nanking.

Johnson also suggests that Department urge Japan to make similar use of draft of June 4 and states that Lampson is urging his Government to press Japanese Government to present draft of June 4.

British Embassy has advised Department on September 4 of British Foreign Office proposal substantially to alter last paragraph

<sup>59</sup> Handed to the Counselor of the British Embassy by the Chief of the Division of Far Eastern Affairs on September 6, 1930.

of Article 10; and Peiping on September 5 informs Department of Lampson's intention to include in British proposals a formula covering Tientsin, Canton and Hankow.

Department is instructing Peiping as follows:

"The Department favors the idea of simultaneous presentation of practically identical proposals. However, it also feels that the present is not an opportune moment. Various considerations underlying that view, including situation in China and factors here, have been indicated in previous telegrams. Additional thereto, it must be taken into account that communication to other interested Governments of information concerning content of proposals contemplated has been very recent. Copies of the June 4 draft were given to the Japanese Ambassador here on August 12 and to the Netherland Legation here on August 19 [20]; you have reported giving a copy to Japanese Chargé on August 25 and to Netherland Minister on September 4 and that Lampson was at about that date giving copies to Japanese Legation and French Minister. It would appear that the interested Governments thus informed can not as yet have had time to give this draft consideration. Under these circumstances, the Department feels that it could not reasonably suggest to the Japanese Government simultaneous presentation of substantially identical proposals on as early a date as that decided upon by the British Government.

Nevertheless, in the interest of cooperation, if the Department be informed that the Japanese Government is prepared and disposed to join in simultaneous presentation at this time of proposals similar in general scope to the June 4 draft, the Department will be prepared to hand to the Chinese Legation here, simultaneously with presentation of drafts by Lampson and by the Japanese representative, copies of the June 4 draft.

The Department doubts the possibility of such an arrangement being effected and refers again to its previous suggestion that action might advantageously be deferred until October.

2. Referring especially to your paragraph 2, and further in the interest of cooperation. In the event that Lampson submits draft independently on or about September 11, the Department, upon being so informed, will be willing to inform the Chinese Legation here that the American Government has full knowledge of the proposals which the British Government is making, that it has prepared substantially the same proposals, and that it will expect to resume conversations and submit proposals some time in October.

3. You may inform Lampson of the above. Department is informing London."

Please inform Foreign Office of the above.

COTTON

793.003/406 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 8, 1930—noon.

[Received September 8—10:55 a. m.]

789. Your 310, Sept. 7, 1 p. m.<sup>60</sup> My understanding of Lampson's instructions convinces me that it is not possible to consider deferring presentation of draft now. He arrives in Nanking September 9th and will present draft as he told me. I have asked Adams<sup>61</sup> to read to him Department's 310. I have asked Adams to tell Lampson that I am saying to you that I understand his instructions preclude postponement of presentation of draft now and that I assume Department will call in Chinese Chargé d'Affaires and inform him of its knowledge of draft without giving him a copy.

JOHNSON

793.003/407 : Telegram

*The Ambassador in Great Britain (Davies) to the Secretary of State*

[Paraphrase]

LONDON, September 8, 1930—3 p. m.

[Received September 8—1:10 p. m.]

216. The Department's 225, September 7, 1 p. m., today was discussed with the Assistant Secretary of State who pointed out the British Government's commitment, not alone by its September 1927 declaration,<sup>62</sup> but also by the statements of the British Minister in China to the Chinese Government, preventing the British Government from seeing its way to instruct Sir Miles Lampson to defer presenting the draft to the Chinese Minister for Foreign Affairs until October 2 or any date in fact after September 11. It was pointed out also by the Assistant Secretary of State that the Chinese Government had announced publicly the fact that Lampson would submit proposals in September.

Accordingly, if the Japanese Government is not ready to join in presenting proposals (see the Department's telegraphic instruction to Peiping, third paragraph, quoted in the Department's 225), the Assistant Secretary of State advises me that his Government would welcome the Department's informing the Chinese Legation at Wash-

<sup>60</sup> Quoted in telegram No. 225, September 7, to the Ambassador in Great Britain, *supra*.

<sup>61</sup> Walter A. Adams, Consul at Nanking.

<sup>62</sup> On January 22, 1927, the British Foreign Office issued a statement on its policy concerning China. See note No. 41, January 19, 1927, from the British Ambassador, *Foreign Relations*, 1927, vol. II, p. 344.

ington in the sense of the Department's telegraphic instruction to Peiping, fourth paragraph.

Keen regret was expressed by the Assistant Secretary of State that the Department of State should in any way have misunderstood the British Government's desire for the United States to join in forming a common general policy toward China and for this cooperation to extend to all differences which would be permitted by the respective commitments of the British and American Governments. It was pointed out by the Assistant Secretary of State that the recent conversations between the two Governments, with the inference that other governments were excluded, had, he most confidentially stated, caused in some quarters a certain resentment against his Government.

DAWES

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793.003/411 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 10, 1930—11 a. m.

[Received September 10—3 a. m.]

796. Your 312, September 8, 6 p. m.,<sup>64</sup> paragraph 3. Lampson showed me text of formula for Hankow, Tientsin and Canton. I did not take a copy. My recollection is that formula for Hankow and Canton was similar to that for Shanghai, while Tientsin formula was altered to cover activity at Tangku.

JOHNSON

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793.003/415 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 12, 1930—9 p. m.

[Received September 12—10:40 a. m.]

809. Legation's 808, September 12, 11 a. m.<sup>64</sup> I am informed by the British Legation that British Minister presented draft to the Minister for Foreign Affairs on the 11th and that it was received without comment.

JOHNSON

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<sup>64</sup> Not printed.

793.003/416

*The Department of State to the Chinese Legation*<sup>65</sup>

## MEMORANDUM

The Department of State is informed that the British Minister to China has laid before the Minister for Foreign Affairs of the National Government of China a draft of proposals in connection with negotiations on the subject of extraterritorial jurisdiction. The Department takes this occasion to inform the Chinese Legation that the Department has been informed with regard to the contents of the draft of proposals referred to above, that the Department has prepared a similar, though not identical, draft which in the majority of its features corresponds with the British draft, and that the Department will be prepared to resume conversations, in continuance of the discussions already begun with a view to the conclusion of a treaty between the United States and China, and, in connection therewith, to submit proposals, in October.

WASHINGTON, September 12, 1930.

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793.003/417 : Telegram*The Minister in China (Johnson) to the Secretary of State*

[Paraphrase]

PEIPING, September 13, 1930—3 p. m.  
[Received September 13—6:53 a. m.]

812. The Japanese Legation informs me that the British Ambassador in Japan on September 9 called upon the Japanese Vice Minister for Foreign Affairs to inquire concerning the Japanese attitude toward the British extraterritoriality proposals. The Vice Minister replied that he could not indicate the attitude Japan would take because the Minister for Foreign Affairs was ill at the moment and some time would be required to complete studying the draft proposals.

For the Minister:  
PERKINS

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<sup>65</sup> Copy transmitted to the British Embassy on September 13.



793.003/418 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 15, 1930—noon.  
[Received September 15—9:35 a. m.]

813. May I inform the Japanese and other interested Legations of the substance of the Department's 317, September 12, 8 p. m.? <sup>66</sup>

For the Minister:  
PERKINS

793.003/418 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, September 15, 1930—4 p. m.

322. Your 813, September 15, noon. Authorization granted. Has presentation of draft by the British Minister received any publicity?  
COTTON

793.003/420 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 18, 1930—noon.  
[Received September 18—10:10 a. m.]

821. Department's 322, September 15, 4 p. m.

1. Reuter, Nanking, September 12th, states: "Dr. Wang stated this morning that the British Government had presented counterproposals on extraterritoriality which the Chinese Government was now considering."

Kuo Wen, Shanghai, September 15th, states: "The British Minister had another conversation with Dr. Wang in Nanking this afternoon. Rendition of Weihaiwei was discussed. The views on extraterritoriality between the two sides are so divergent that an early agreement is not believed possible."

2. I am informed by the British Legation that Dr. Wang has made no reference to the proposals since the draft was handed him on September 11th. No public interest appears to have been aroused by the British proposals.

For the Minister:  
PERKINS

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<sup>66</sup> Not printed; it quoted the text of the memorandum of September 12, 1930, to the Chinese Legation, p. 467.

793.003/425 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 20, 1930—9 p. m.  
[Received September 21—12:25 p. m.]

834. Department's 312, September 8, 6 p. m.<sup>87</sup> Legation has received final text of extraterritoriality proposals as handed in by Lampson. There are certain changes in the June 4th draft in the preamble and in articles 2, 9, 10 and 15. The protocol has been added. In case the British Embassy has not supplied Department with text of these changes should they be telegraphed?

For the Minister:  
PERKINS

793.003/425 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, September 23, 1930—noon.

328. Your 834, September 20, 9 p. m. Please telegraph text or substance of any changes of importance.

COTTON

793.003/428 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 24, 1930—6 p. m.  
[Received September 25—10:16 a. m.<sup>88</sup>]

849. Department's No. 328, September 23, noon. Following are the more important changes and additions appearing in September 11th draft:

1. Preamble reads:

"His Britannic Majesty having declared his willingness that January 1, 1930, should be regarded as the date upon which the process of gradual abolition of the extraterritorial rights of British subjects in China shall have in principle commenced, the President of the National Government of the Republic of China and His Britannic Majesty, being desirous of concluding a treaty for the purpose of regulating this process, have appointed as their plenipotentiaries (. . .) who having, et cetera, agreed as follows."

2. Article 2, Parenthetical note appearing in June 4th draft omitted.

<sup>87</sup> Not printed.

<sup>88</sup> Telegram in two sections.

3. Article 9. The following added:

"nor within a radius of 30 li from the present customs houses at Canton and Hankow nor within a radius of 30 li from the present customs houses at Tientsin and 10 li from the present customs [?] at Tangku, together with the course of the Haiho between these points."

4. Article 10 throughout the [final] paragraph reads as quoted in Department's 312, September 8, 6 p. m.<sup>69</sup>

5. Article 16 reads as follows:

"In the present treaty the expression 'British subjects' shall be deemed to include British protected persons."

6. Article 17 same as Article 16 in June 4th draft.

7. Protocol. Essentially the same as preamble in June 4th draft except for final paragraph reading as follows:

"The territorial jurisdiction of the courts referred to in Article 2 of the present treaty shall be determined in accordance with the practicability of accession by a subsequent agreement concluded before the exchange of the ratification[s]."

For the Minister:  
PERKINS

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793.003/431 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 26, 1930—6 p. m.  
[Received September 26—1: 51 p. m.]

855. Legation's 821, September 18, noon.

1. Minister for Foreign Affairs recently told British Minister that he and Dr. Wang Chung-hui were deeply disappointed with the British extraterritoriality proposals which were unacceptable on account of the excessive safeguards demanded. The Chinese Government would submit counterproposals and he hoped that the negotiations might be continued directly between Lampson and himself and not through representatives. British Minister replied that any counterproposals would have to be referred to his Government.

2. British Legation, on informing me of the above, stated that Lampson had not remained in Nanking to receive counterproposals and was now returning to Peiping.

For the Minister:  
PERKINS

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<sup>69</sup> Telegram not printed; for text of the final paragraph of article 10, see note of September 4 from the British Embassy, p. 459.

793.003/444½

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*

[WASHINGTON,] October 28, 1930.

The Chinese Minister <sup>70</sup> called by appointment.

Mr. Hornbeck stated that he was now in position to resume the conversations which had been suspended during the absence of the Minister on the subject of extraterritorial jurisdiction in China. He said that the Department had ready a draft of proposals; that he was prepared, if the Minister wished to receive it at this time, to hand over a copy of the draft; that it was the expectation of the Department that the American Minister to China would be in Nanking during the first week in November; that we felt that it would facilitate matters to have him (Mr. Johnson) hand to the Minister of Foreign Affairs a copy of our draft; that it might seem desirable from some points of view to have the handing over of drafts made simultaneous; but that if the Minister (Dr. Wu) would prefer to receive a copy now, a copy could be given him. Mr. Hornbeck continued to the effect that we were informed that the Kuomin Party was to hold a convention at Nanking, beginning on November 12; that he could not but wonder whether the Government would be preoccupied with domestic political questions and might prefer not to give at this time consideration to such a problem as that of extraterritoriality. We would be willing to be guided by the views, if he chose to express them, of Dr. Wu.

Dr. Wu said that he did not think that the question of the coming convention or the convention itself would very much affect the work of the Foreign Office. He said that the news of course had been disseminated in China that the American Government expected to make proposals during the month of October. He said that the Chinese Government would probably be asked, not later at least than the opening of the convention, whether the proposals had been received, and if not, why. He said that it seemed to him best to get forward with the matter and he felt that we might give him the proposals now, with the understanding that it was our intention to give them, through Mr. Johnson, to Dr. Wang after Mr. Johnson's arrival at Shanghai or Nanking. He said that he would not want to take the trouble or go to the expense of telegraphing the text in case it was understood that we would deliver a text in China.

Mr. Hornbeck thereupon handed Dr. Wu two copies, dated October 28, of the draft.<sup>71</sup>

<sup>70</sup> Dr. Wu had returned from Geneva and called at the Department of State on October 24.

<sup>71</sup> *Infra*.

Dr. Wu glanced through a copy and remarked that it was a lengthy document. He said that he was glad that he would not have to telegraph it. He said that he would telegraph his Government that he had received the draft and that it was lengthy and that he would not telegraph the text and that a text would be given to the Minister of Foreign Affairs by the American Minister probably during the first week in November.

The discussion of this subject there ended.

S[TANLEY] K. H[ORNBECK]

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793.003/4443

*Draft Agreement of October 28, 1930*<sup>72</sup>

(Without Commitment)

The United States Government having declared its willingness that January 1, 1930, should be regarded as the date upon which the process of gradual abolition of the extraterritorial rights of nationals of the United States of America in China shall in principle have commenced, the Chinese Government will, with a view to enabling nationals of the United States of America during the period of transition to familiarize themselves with Chinese laws and judicial procedure, immediately communicate to the United States Government all Chinese codes actually promulgated and enforced, together with authorized translations thereof.

The United States Government will forthwith take steps toward applying as far as practicable in the United States Courts in China all such Chinese laws, ordinances and regulations not including, however, Chinese laws of procedure, whether civil or criminal, as shall have been promulgated and enforced and communicated with translations to the American Legation in China.

The following agreement for the transfer of jurisdiction over nationals of the United States of America in China from the United States to the Chinese Courts shall come into effect upon the exchange of ratifications which shall take place one year after the Chinese Government shall have promulgated and actually put into operation all the principal codes in conformity with modern concepts of jurisprudence and shall have communicated texts thereof, together with authorized translations thereof, to the American Legation in China; and when the National Government shall have demonstrated its ability to give effect throughout China to the terms of this agreement.

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<sup>72</sup> Handed to the Chinese Minister by the Chief of the Division of Far Eastern Affairs on October 28, 1930.

ARTICLE ONE. *Transfer of Jurisdiction.*

Except in criminal cases other than minor offenses indicated below and as otherwise provided by this agreement, nationals of the United States of America in China will as from the date of the exchange of ratifications of this agreement be subject to the jurisdiction of the modern Chinese law courts, with rights of appeal and in all other respects in accordance with the modern Chinese codes of law and procedure. They shall not, however, be subject to the jurisdiction of the police courts, except in the case of minor offenses not punishable by detention or imprisonment or fines exceeding \$10, nor to the jurisdiction of the magistrates courts, nor to that of military courts or courts or tribunals of any kind other than the regular modern law courts of China. From the inception of all such civil proceedings until the conclusion thereof, including the hearing of all cases in court, as well as preliminary investigations or examinations of whatever nature, the assistance of duly qualified American or other foreign or Chinese lawyers and interpreters will be permitted, it being understood that no technical difficulties will be placed in the way of such representation on the part of any foreign lawyer resident in China and in good standing selected by the parties to the action; it being further understood that the lawyer concerned shall have all the rights and privileges accorded to a Chinese lawyer in similar circumstances.

Hearings shall be in the Chinese language, but the Court shall take measures to ensure that such English and Chinese translations are made during hearings and later, as may be necessary for an understanding of the proceedings by all parties to the case, and their representatives.

Nationals of the United States of America parties to a suit or persons authorized by them, shall, upon payment of the usual official fees for such copy, have the right to obtain, in both Chinese and/or English, certified copies of the evidence and judgment in such suit.

ARTICLE TWO. *Establishment of Special Chambers in the High and District Courts.*

In the district courts in Harbin, Mukden, Peiping, Tientsin, Tsingtau, Shanghai, Nanking, Hankow, Chungking, Canton, Foochow and Yunnanfu, and in the high courts having appellate jurisdiction over such district courts, with the exception of the Supreme Court, special chambers shall be established for dealing with civil cases in which a national of the United States of America is the defendant. (Note: The territorial jurisdiction of such courts in respect to nationals of the United States of America shall be determined, in accordance with the practicability of access, by agreement between the United States and the Chinese Governments.) All civil cases involv-

ing nationals of the United States of America as defendants, wherever resident, except when they may be taken to the Supreme Court on final appeal, or when a national of the United States of America concerned may elect, in writing, to submit himself to the jurisdiction of the local (modern) court having jurisdiction over purely Chinese cases of a similar nature, shall be tried only before these special chambers, which will also hear cases in which nationals of the United States of America are involved as plaintiffs or complainants originating within the ordinary jurisdiction of the courts to which the special chambers are attached.

The chief judge of a special chamber shall be the President of the Court to which the chamber belongs. Other judges of the special chamber as well as its procurators shall be selected from among legal scholars with thorough training and lengthy practical experience and with a broad knowledge of the general concepts of western legal codes and procedure. Their names, ranks and salaries shall be made known to the public and they shall not be removed from office without cause being publicly shown. To each special chamber there shall be attached legal advisers who shall be selected by the Chinese Government from a list of foreign jurists nominated by the Hague Permanent Court of International Justice and appointed in accordance with the conditions of service and salary recommended by the said Court. Such legal advisers shall remain in office for a specified term unless dismissed for cause publicly shown and shall otherwise receive the consideration and respect due the dignity of their office. It is understood that a legal adviser need not permanently reside at the place in which the special chamber of the district court to which he is assigned is established and furthermore that there shall be a thoroughly flexible and practicable system of administration of assignments in order to ensure efficiency and economy in the employment of the said legal advisers. As far as may be practicable a legal adviser of American nationality shall officiate at the trial of cases involving nationals of the United States of America as defendants.

In cases in which nationals of the United States of America are plaintiffs or complainants or defendants, the legal advisers shall observe the working of the special chambers of the district courts and high courts in question and shall have access to the files of the proceedings. The legal advisers may present their views to the judges, who shall give due consideration to the views thus expressed by the legal advisers. It shall be the duty of the legal advisers to forward to the Minister of Justice such reports as they may consider necessary, and copies of these reports in cases concerning nationals of the United States of America shall simultaneously and immediately be forwarded by the legal advisers to the American Legation in China. The legal

advisers shall be authorized to receive complaints to which the administration of justice may give rise, with a view to bringing such complaints to the notice of the Minister of Justice in order to ensure the strict observance of the provisions of Chinese law. Similarly the legal advisers shall be authorized to receive any other complaints, including such as may be caused by domiciliary visits, requisitions or arrests, et cetera. In all cases in which nationals of the United States of America are involved as defendants, a legal adviser shall sit as one of the judges hearing the cases in both the district and high courts, and the concurrence of the legal adviser to any judgment or order shall be necessary for its validity.

The special chambers above referred to shall be established and the legal advisers shall be appointed and installed in office before the exchange of ratifications of this agreement.

**ARTICLE 3.** *Guarantees in Regard to Taxation and the Operation of Courts.*

With regard to the transfer of jurisdiction over nationals of the United States of America in China from the United States to the Chinese courts, the Chinese Government declares as follows:

(a) That nationals of the United States of America shall be liable for the payments of such non-discriminatory Chinese taxation only as is actually paid by all nationals of China and is authorized under the legally enacted and duly promulgated laws, ordinances and regulations of the Central, Provincial and Municipal Governments of China, the texts and the translations of which shall first have been communicated to the American Legation in China;

(b) That nationals of the United States of America shall be protected against all illegal taxation and irregular exactions and against all exactions sought to be enforced without due process of law;

(c) That municipal taxation shall be enforced against nationals of the United States of America only in accordance with duly authorized municipal regulations sanctioned by the Central Government of China and that the proceeds of such municipal taxation shall only be expended on relevant purposes within the municipal areas in question and that nationals of the United States of America shall be protected against unfair or oppressive taxation or methods of assessing or levying such taxation;

(d) That tax agreements entered into with nationals of the United States of America in their several capacities as merchants, firms, partnerships or companies will be duly respected;

(e) That the Chinese courts shall ensure to the persons and property of nationals of the United States of America due protection in accordance with international law and the general practice of nations; and



(f) That the Chinese courts assuming jurisdiction over nationals of the United States of America shall be kept strictly immune from administrative or other interference by any military or non-judicial authority.

**ARTICLE 4. *Rights of Evocation.***

The United States Government through American diplomatic or consular officers in China, whenever in their discretion they deem it proper so to do in the interest of justice or as a result of a violation of any of the provisions of this agreement, express or implied, may by means of a written requisition addressed to the competent Chinese authorities including the judge or judges of the Court concerned, evoke any case pending in any Chinese court in which a national of the United States of America is defendant. A case so evoked shall be transferred forthwith to the competent American authorities for adjudication and Chinese jurisdiction in the case will cease. The Chinese authorities shall lend any assistance requested by the American authorities in dealing with evoked cases. In evoked cases the rights and liabilities of the parties shall be determined by Chinese laws so far as they have been regularly promulgated and enforced and communicated to the American Legation in China.

**ARTICLE 5. *Arrest, Detention and Trial.***

Nationals of the United States of America may not be arrested, detained or imprisoned except when taken in the act of a misdemeanor or crime, in which case, if act is punishable by a fine of more than \$10.00 or by detention or imprisonment, the person so taken shall, within twenty-four hours after arrest, be handed over to the nearest American consular or other American judicial authority for appropriate action.

**ARTICLE 6. *Reservation of Personal Status Matters.***

Nationals of the United States of America in China shall not be amenable to Chinese jurisdiction in any matters of personal status, among which are included all questions relating to marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliation, adoption, capacity, majority, guardianship, trusteeship and interdiction, and in all matters relating to succession to personalty whether by will or on intestacy, and to the distribution and winding up of estates and family law in general.

**ARTICLE 7. *Arbitration.***

The Chinese courts will recognize agreements entered into by nationals of the United States of America between one another and with other foreign nationals and with nationals of China for the settlement of civil or commercial controversies by arbitration and will enforce

awards made in pursuance thereof unless contrary to public order or good morals.

**ARTICLE 8. *Titles to Real Property.***

The Chinese Government agrees that titles to real property held by nationals of the United States of America in China shall be regarded as indefeasible and shall remain undisturbed by the provisions of this agreement. All legal Chinese land transfer fees leviable under regular Chinese legislation as provided in Article 3 shall, where properly payable under such legislation, be paid by nationals of the United States of America on account of land transactions in the future. But no demands shall be made by the Chinese authorities for the payment of such land transfer fees on transfers of land to or from nationals of the United States of America in the past and titles to land held by nationals of the United States of America shall not be called in question on account of non-payment of such transfer fees in the past. Title to property held by nationals of the United States of America shall likewise not be questioned other than when fraud is proved as a result of due process of law.

**ARTICLE 9. *Reservation of Settlements and Concessions.***

It is understood that this agreement shall not apply in areas where, on the basis of agreements between China and any other Power or Powers, Chinese administrative jurisdiction does not apply. It is, furthermore, understood that this agreement shall not apply within a radius of fifty li from the present customs house at Shanghai.

**ARTICLE 10. *Immunity of Nationals of the United States of America and their Property and Shipping from any and all Illegal Searches, Expropriations and Requisitions.***

The public buildings and private residences of nationals of the United States of America in China and their warehouses and business premises and factories, together with all their accessories, articles and properties shall be respected and shall not be subjected to any requisition, search or inspection, and the books and correspondence relating to their commercial transactions shall not be examined except as specifically provided for in non-discriminatory legislation legally enacted and duly promulgated, and as a result of due legal process. In no event shall premises occupied by nationals of the United States of America be forcibly entered except upon a warrant formally issued by a modern law court specifically citing, by title and section, the law under which action is authorized; and the section of the Chinese code relating to domiciliary searches by procurators without court processes shall not apply to such premises. Nationals of the United States of America in China shall not be subjected directly or indirectly to any form of military service or to any tax or levy imposed as a substitute

for military service or to military requisitions or contributions of any kind, nor shall they be compelled to subscribe directly or indirectly to any public loan or to any other form of forced levy.

The property of nationals of the United States of America in China may not be expropriated, nor may the use of it be denied to its owners even temporarily except for reasons of public interest recognized by law as such in the form of a court order emanating from one of the modern courts in which special chambers have been established in accordance with Article 2 of this agreement. No expropriations shall be made without previous public notice and in return for fair compensation to be paid in advance. The use of the property of nationals of the United States of America may not be denied to them even temporarily except in return for fair compensation to be paid in advance.

American commercial vessels in Chinese ports or coastal waters or rivers shall not be subject to any form of commandeering or requisition; nor shall such vessels be inspected, searched, boarded or subjected to any kind of restraint by Chinese military or other armed authority except by agreement with the captain of the vessel. They may not be boarded by Chinese police nor may any person subject to the jurisdiction of the Chinese courts be arrested on board any such vessel except upon a warrant formally issued by a modern law court specifically citing by title and section the law under which such action is authorized. In the absence of such warrant, Chinese police may only board a vessel by agreement with the captain. American commercial vessels shall not be compelled to carry Chinese troops, whether armed or unarmed, or Chinese military supplies. In general treatment accorded to American commercial vessels in Chinese ports or coastal waters or rivers shall be in conformity with that accorded under recognized international practice by maritime nations to vessels of other countries in their ports or territorial waters. Nothing in this article shall be interpreted, however, as altering the present authority of the Chinese Maritime Customs with regard to American vessels.

*ARTICLE 11. Treatment to be Accorded American Business Organizations.*

American companies, firms, partnerships and corporations incorporated or organized in accordance with American law operating in China shall be entitled to all the rights and privileges enjoyed by nationals of the United States of America under this agreement, including the rights enjoyed in Chinese courts, whether as plaintiffs, complainants or defendants. It is understood that such American companies, firms, partnerships, or corporations and their branches, agencies or representatives shall not be subject to discriminatory treatment and American legal persons shall only be taxed in proportion to the amount of

capital actually employed in China or in respect of the profits and revenues which they have actually earned in China.

**ARTICLE 12.** *Understanding Regarding Pending Cases.*

It is understood that after the transfer of civil jurisdiction over nationals of the United States of America in China from the United States' courts to Chinese courts, as provided for in this agreement, suits terminated under the former American juridical system shall not be reopened; that judgments previously rendered by former United States' courts shall be executed in any part of China by the Chinese judicial authorities; that suits pending in the United States' courts at the time of the exchange of ratifications of this agreement shall continue until the execution of judgment in the said courts, the jurisdiction of which shall remain in full force for this purpose; and that the Chinese authorities will lend any assistance requested by the American authorities in this connection.

**ARTICLE 13.** *Rights of Residence and Trade.*

It is understood that as from the date of exchange of ratifications of this agreement nationals of the United States of America shall enjoy the right without restriction to reside, travel, trade and own property throughout China.

**ARTICLE 14.** *Non-discriminatory Treatment for Nationals of the United States of America.*

In all matters for which this agreement provides, nationals of the United States of America shall enjoy all exemptions from Chinese jurisdiction which may be enjoyed by the nationals of any other country and shall be subjected to no discriminatory treatment in regard to taxation, judicial, or any other matters concerned, as compared with nationals of China or the nationals of any other country.

**ARTICLE 15.** *Provisions of Existing Treaties to Remain in Force.*

Except as modified in this agreement, the existing treaties between the United States and China shall remain in force.

**ARTICLE 16.**

In the present agreement the expression "nationals of the United States" shall be deemed to include citizens of the possessions of the United States of America.

**ARTICLE 17.** *Ratification and Duration.*

This agreement shall come into force upon exchange of ratifications and shall thereupon be mutually and reciprocally binding for a period of ten years, at the end of which period the agreement may, in response to the demand of either party made six months prior to the expiration of the period, be revised by negotiation between the parties thereto. Should neither party demand such revision of the agreement, it shall

continue in full force for an additional period of five years, at the expiration of which term the same privileges of revision by mutual consent after demand and negotiations shall apply, and likewise at the expiration of every successive term of five years.

After a period of not less than five years from the date of ratification of this agreement, in which period the workings of the special courts trying civil cases involving nationals of the United States of America have been carefully observed, especially in reference to the demonstrated freedom of the courts from administrative interference by the military and/or other non-judicial authorities, the matter of the extension of Chinese jurisdiction over nationals of the United States of America in other than civil cases shall receive further consideration, the action to be taken in this regard to be determined in the light of experience of the actual working out of the present provisions regarding civil cases.

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793.003/444c: Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, October 29, 1930—5 p. m.

375. 1. Referring to the Department's instruction No. 137 of June 9, 1930, transmitting a revised draft of proposals, dated June 4, 1930, on extraterritorial jurisdiction, please note the following changes in the draft of these proposals as handed to the Chinese Minister in Washington on October 28, 1930.

2. The last paragraph of Article 10 relating to commercial vessels should read as follows:

[Here follows text printed on page 478.]

3. Article 16 of the Oct. 28 draft reads:

"In the present agreement the expression 'nationals of the United States' shall be deemed to include citizens of the possessions of the United States of America."

4. Article 16 of the draft of June 4 becomes Article 17 in the October 28 draft.

5. Each page of the draft has at the top the words "without commitment".

6. You should be prepared to hand a copy of the October 28 draft to the Minister of Foreign Affairs. The Chinese Minister here has been informed that this will be done. You should also advise your British and Japanese colleagues of the changes in our draft as referred to above.

7. Copies of our October 28 draft are being handed in duplicate to the British Ambassador here and being sent to the American Ambassador in London.

STIMSON

793.003/444b : Telegram

*The Secretary of State to the Minister in China (Johnson)*

[Paraphrase]

WASHINGTON, October 29, 1930—6 p. m.

376. Reference your 936, October 27, 5 p. m.,<sup>73</sup> final paragraph, and the Department's recent telegrams on extraterritoriality.

While a draft of proposals has been given the Chinese Minister here, there was no discussion, and the Department estimates that discussion is not likely immediately. Concurring in your opinion that perhaps it may not be wise during the meeting at Nanking of the Kuomintang executive committee for you to be present there, the Department wishes you to hand a copy of the draft to the Chinese Minister for Foreign Affairs at the earliest moment convenient and, at your discretion, to plan on leaving Nanking some days prior to the meeting's opening.

STIMSON

793.003/450 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 8, 1930—3 p. m.

[Received November 8—5:10 a. m.]

971. Legation's 949, October 31, 5 p. m.<sup>73</sup> Following from Reuter, Nanking, November 7th:

“‘Never will China regain her full sovereignty and her proper place in the family of nations unless extraterritoriality is abolished,’ declared Dr. C. T. Wang in the course of an interview this morning.

The Foreign Minister declared that the extraterritoriality question was the most important issue confronting the Nationalist Government and although the success or failure of the extraterritorial negotiation depended very much on the internal political situation, he believed that public support in China was the most important factor. The people of China should unite and fight for the abolition of extraterritoriality. The return of Shantung and the restoration to China of complete tariff autonomy were the result of vigorous public agitation.

He hoped that the powers which had expressed friendship for China, especially Britain, France and America, would give concrete evidence of it in their negotiations regarding extraterritoriality. China wanted sympathy in terms of action, not words, declared the Minister.”

For the Minister:

PERKINS

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<sup>73</sup> Not printed.

793.003/451 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

[Extract]

PEIPING, November 9, 1930—11 a. m.

[Received November 9—1:52 a. m.]

972. Following from Minister Johnson, Shanghai:

"November 8, 5 p. m. Arrived 7th, gave Japanese Chargé d'Affaires copy October 28th proposals this morning and will give copy to Wang either here Sunday or in Nanking on Monday. . . ."

For the Minister:

PERKINS

793.003/452 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 11, 1930—noon.

[Received November 11—9:20 a. m.]

977. Following from Minister at Shanghai:

"November 10, 9 a. m. I handed C. T. Wang a copy of the draft proposals yesterday. He stated that he was keeping in touch [with] Wu in Washington as he considered these negotiations very important, 'in fact the only matter of importance pending between China and the United States.'"

For the Minister:

PERKINS

793.003/458

*Memorandum by the Chief of the Division of Far Eastern Affairs  
(Hornbeck)*

[WASHINGTON,] November 12, 1930.

Dr. Wu called by appointment, made at his request.

Dr. Wu inquired whether the Department had yet been informed of the delivery by Minister Johnson to the Chinese Minister for Foreign Affairs of the text of the proposals on extraterritoriality. Mr. Hornbeck replied that a telegram had come in this morning stating that the proposals would be delivered on the 9th or 10th of November; but that we had not yet received word that they actually had been delivered.

Dr. Wu said that he had looked over the draft handed to him some days previously by Mr. Hornbeck and that he found it even more unsatisfactory than he had expected that it would be. He said that it did not provide for the abolition of extraterritoriality but provided

rather for its continuance. He said that he thought it would be preferable for the Chinese Government to enter into no new agreement rather than an agreement of this type.

Mr. Hornbeck said that the Department, pressed by China for proposals, and having stated in the announcements of September 4 and November 11, 1929,<sup>75</sup> the lines along which it would be willing to negotiate, had attempted to produce draft proposals the provisions of which, if agreed upon, would provide a working scheme for the gradual abolition of American extraterritorial jurisdiction.

Dr. Wu said that he was struck with the extent to which the American proposals corresponded with the British proposals. Mr. Hornbeck said that British and American officers had several months ago exchanged views with regard to the needs of the situation and the steps which would fit those needs; that it was surprising to what extent the ideas had coincided; and that thereafter, in comparing notes, they had proceeded on the principle that wherever there was an agreement as to substance, it would make for progress to use the same phraseology. He said that it was felt that if China made treaties with a number of countries dealing with the same subject, the use of the same phraseology in all such treaties would simplify problems which might later arise. Dr. Wu said that he thoroughly agreed as to that principle. Mr. Hornbeck said that he felt that it must make the whole of the present problem clearer for China to realize how the American and the British Governments, exchanging views but acting independently, feel with regard to the desiderata in connection with the proposed new treaties.

Dr. Wu reverted to the statement that it would be better for China to wait than to commit herself to the indefinite perpetuation of even a part of the extraterritorial system. Mr. Hornbeck said that he thought that the Chinese Government should give serious consideration to the proposals which had been submitted; that the American Government, and he believed all the other governments, wished to be of assistance to China, consistently with their own interests, in effecting the transition from the present regime to a regime in which China's jurisdiction within her own territories will be unimpaired; and that the proposals offer a plan whereby Chinese jurisdiction would be extended and the extent of American jurisdiction be cut down.

Dr. Wu asked that, when the Department had word that the text had been delivered in Nanking, he be informed. Mr. Hornbeck assured him that he would be informed.

There the conversation, as to this matter, ended.

<sup>75</sup> Press releases giving texts of notes of August 10 and November 1, 1929, replying to Chinese notes of April 27 and September 5.



793.003/452 : Telegram

*The Secretary of State to the Consul General at Shanghai (Jenkins)*

WASHINGTON, November 13, 1930—noon.

For Johnson and repeat to Legation as No. 392:

Legation's 977, November 11, noon.

The Department is releasing to the press today the following item:

"On September 18, 1930, the Department announced that it would be prepared in October to resume the conversations begun some time ago in regard to American extraterritorial jurisdiction in China. Proposals of the American Government have recently been communicated to the Chinese Minister, Dr. C. C. Wu, in Washington, and to the Minister of Foreign Affairs of the National Government of the Republic of China, Dr. C. T. Wang, in Nanking.

The proposals are in keeping with the statements of the Department issued under dates September 4, 1929, and November 11, 1929, that the American Government was prepared to enter into negotiations which would have as their object the devising of a method for the gradual relinquishment of extraterritorial rights, either as to designated territorial areas or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment and effective enforcement of laws based on modern concepts of jurisprudence.

Broadly speaking, the proposals are constituted in part on the principle of transfer of jurisdiction in reference to specified kinds of cases and in part on the principle of such transfer in all but a specified area or areas.

The proposals are similar to, but not identical with proposals made to the Chinese Government by the British Government on September 11, 1930."

STIMSON

793.003/501

*Memorandum by the Minister in China (Johnson) of a Conversation With the Chinese Minister for Foreign Affairs (C. T. Wang)*<sup>76</sup>

NANKING, December 2, 1930.

In the course of conversation this evening Dr. Wang stated that he had been doing every thing that he could to prevent any action being taken by the Government that would injure the business that foreigners had already established in the interior. He said that in the future, however, and until Extraterritoriality was discontinued foreign firms would not be permitted to make further extensions of their business into the interior. I inferred from this that foreign firms would not be allowed to hold land in the interior directly or indirectly

<sup>76</sup> Copy transmitted to the Department by the Counselor of Legation in his despatch No. 671, December 15, 1930; received January 15, 1931.

for the purpose of establishing thereon warehouses or agencies for the disposal of their goods.

NELSON TRUSLER JOHNSON

793.003/469

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*Chinese Counterproposals of December 7, 1930*<sup>77</sup>

ARTICLE I

Beginning from January 1, 1930, citizens of the United States of America in China shall be subject to the duly promulgated laws, ordinances and regulations of the Central, Provincial and Municipal Governments of China and, other than as modified by the provisions of the present Treaty and the Annex thereto, they shall be subject only to the jurisdiction of the modern Courts of Justice (Fa Yuan) through which judicial orders may issue in accordance with law and established procedure.

Any of the modern courts already established or to be established in future in China may exercise jurisdiction in any civil or criminal case where a citizen of the United States is defendant or accused. After the coming into force of the present Treaty, such cases shall, upon the written request of the defendant or accused made before trial begins, be transferred, after the necessary preliminary steps, if any, having been taken, to the modern courts established at Harbin, Shenyang (Mukden), Tientsin, Shanghai, Hankow, Chungking, Canton and Kwummin (Yunnanfu), in each of which courts there shall be created a special chamber having jurisdiction over citizens of the United States.

ARTICLE II

A special chamber for trying appeal cases involving citizens of the United States as defendants shall be established in each of the Provincial High Courts which respectively have regular appellate jurisdiction over the Courts at the several places mentioned in the preceding Article. Appeals shall lie from such Provincial High Courts to the Supreme Court of China in accordance with Chinese law of procedure.

ARTICLE III

Upon the coming into force of the present Treaty the Chinese Government agrees to take into its service a number of legal counselors who shall be selected and appointed, subject to dismissal upon cause shown, as officials of China by the Chinese Government from among

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<sup>77</sup> Received by the Chief of the Division of Far Eastern Affairs from the Chinese Minister on December 7, 1930.

Chinese and foreign legal experts of high moral character who possess the qualifications necessary for appointment to judicial offices. The names and the amount and conditions of payment of the salaries of the legal counselors will be communicated by the Chinese Government to the Government of the United States. Such legal counselors will serve under the Minister of Justice and may be deputed by the Ministry of Justice, as occasion requires, for service, during the hearing of cases involving citizens of the United States as defendants or accused, in those modern courts in which special chambers are established. It shall be the duty of the Legal counselors to observe the workings of those special chambers without interfering in the performance of duties by the judges, and to forward to the Minister of Justice such reports as the legal counselors may consider necessary. In addition, the legal counselors will be authorized to receive directly any observations regarding the administration of justice in civil or criminal matters, the execution of sentences, or the manner of application of the law, and at the request of any of the interested parties shall bring such observations to the notice of the Minister of Justice with a view to ensuring the observance of the provisions of Chinese law.

Similarly, the legal counselors will be authorized to receive any observations regarding domiciliary visits, search or arrests; moreover, immediately following any domiciliary visits, search or arrests directly affecting citizens of the United States in any judicial district, the local authorities shall notify the legal counselors who shall be most accessible in point of time.

#### ARTICLE IV

The special chambers established in accordance with Articles I and II of the present treaty shall be abolished after a period of two years. The legal counselors will be employed by the Chinese Government for such period as it may consider necessary not being less than two years.

#### ARTICLE V

In all cases in which rights in immovable property have been legally acquired by a citizen of the United States, such rights shall be recognized as valid by Chinese authorities.

#### ARTICLE VI

Except in cases of *flagranti delicto*, private houses, business premises and other properties owned or leased and occupied by citizens of the United States shall not be entered forcibly or be searched unless warrants in each case have been duly issued by the judicial authority.

## ARTICLE VII

It shall be open to the citizens and organizations of the United States freely to enter into agreement for the settlement of civil or commercial controversies by arbitration and, upon application being made by the interested party or parties, the Courts of Justice shall take judicial cognizance of such agreements and shall enforce the awards made in pursuance thereof unless, in the opinion of the competent court, the award is contrary to public order or good morals or is vitiated on other grounds recognized by the general principles of law.

## ARTICLE VIII

In all matters for which provision is made in the present Treaty citizens of the United States shall be accorded the same treatment as the nationals of other countries who are subject to the jurisdiction of the Chinese Government on a similar basis as citizens of the United States. In all civil and criminal proceedings citizens of the United States shall have the same rights as the nationals of any other country.

## ARTICLE IX

All provisions in the existing treaties between China and the United States of America relating to matters of jurisdiction shall be abrogated and cease to be operative.

## ARTICLE X

The present Treaty shall be ratified within a period of three months from the signature thereof in accordance with the respective constitutional procedure of the High Contracting Parties. It shall come into force on the date of the exchange of ratifications which shall take place at Nanking, and shall remain in force for a period of five years.

## ANNEX

## 1

All judgments given by the American consular officials in China or the United States Court for China before the coming into force of this Treaty, which have become final and definitive—even if they have not been executed—are considered as definitely settled and in no case may be reviewed. Such judgments shall be executed by the Chinese courts upon the request of the interested party or parties, unless they are detrimental to the sovereignty of China. American prisoners upon whom sentences have been definitely passed shall be transferred to American prisons outside the territory of China or handed over to

Chinese authorities to serve their sentences in those prisons mentioned in Section 7 of this Annex.

All cases pending before the American consular officials in China or the United States Court for China at the time of the coming into force of this Treaty shall be finally disposed of and wound up within a period of three months, upon the expiration of which all cases which are still pending shall be turned over to the Chinese courts for adjudication.

## 2

In matters of police offences, a citizen of the United States shall be subject to the jurisdiction of the nearest police court or of any modern court established in China. If he is found guilty of a police offence by the police court, he shall be ordered to pay a fine not exceeding fifteen dollars. If he fails to pay the fine within five days after its imposition, he shall be subject to detention at the rate of one day's detention for each dollar of the fine imposed, such detention to be in accordance with the provisions of section 7 of this Annex.

For a second or subsequent offence, the offender may be sentenced to detention or fine in accordance with the police offence law.

After a period of two years from the coming into force of this Treaty, citizens of the United States shall be subject to the jurisdiction of police courts in the same way as Chinese citizens.

## 3

A citizen of the United States arrested in *Flagranti delicto* for an act which is punishable under the Criminal Code or other criminal laws may not be kept under arrest or detention for more than twenty-four hours, exclusive of holidays, without being brought before the judicial authority for preliminary hearing.

Except in cases of *flagranti delicto*, no citizen of the United States shall be arrested or imprisoned without an order emanating from the judicial authority.

## 4

Where release on bail is granted to citizens of the United States, the sum fixed shall be reasonably proportionate to the degree of the offence, taking also into consideration the condition of life of the accused. In all cases, release on bail may be granted at the discretion of the court, and in cases of minor offences, it will always be granted unless (1) this entails danger to public safety, (2) the court has reason to believe that the accused may flee from justice after release, or (3) such provisional release is calculated to impede the investigation of the case. When a citizen of the United States appeals from a

sentence, the same facilities for release on bail as mentioned above shall be granted him until the sentence of the Appellate Court shall have been handed down.

## 5

In matters of personal status the laws of the United States of America will be applied by Chinese courts as regards citizens of the United States in China on condition that the laws of China be applied in such matters by the federal or State courts of the United States as regards Chinese citizens in the United States of America.

## 6

A citizen of the United States appearing before a Chinese Court as party to a civil or criminal case shall have the freedom to employ legal counsel of Chinese or his own nationality, registered as such with the Chinese Government, to represent him before the court, and such counsel, if of American nationality, shall have the same rights and privileges as Chinese lawyers appearing before the court, and shall be subject, in all respects, to the same laws and regulations governing Chinese lawyers.

Hearings shall be in the Chinese language, but the court shall take measures to ensure an understanding of the proceedings by all parties to the case, and have the assistance of competent interpreters, if necessary.

## 7

Citizens of the United States sentenced to detention or imprisonment shall be detained or imprisoned only in modern detention houses or prisons.

Citizens of the United States who are detained or imprisoned shall have the right to communicate with, or to be visited by, relations or friends according to the regulations of detention houses or prisons.

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793.003/474

*Memorandum by Mr. Joseph E. Jacobs of the Division of Far Eastern Affairs*

[WASHINGTON,] December 10, 1930.

The Chinese Minister called at the Department this morning and made to Mr. Hornbeck and Mr. Jacobs observations in explanation and amplification of the Chinese counter proposals as sent by Dr. Wu to Mr. Hornbeck on December 7, 1930, substantially as follows:

In opening his remarks, Dr. Wu stated that the Chinese counter proposals of December 7, 1930, followed more closely the text of

certain informal data on the subject handed to him "without commitment" by Mr. Hornbeck early in February, 1930,<sup>78</sup> than the text of our draft proposals of October 28, 1930.

With regard to Article I, Dr. Wu stated that, while no reference had been made to Magistrates Courts or Military Courts, the exemption of Americans from such courts was provided for in the Article by the clause "they (Americans) shall be subject only to the jurisdiction of the modern courts of justice." He stated that the Chinese Government also desired, if possible, to limit to more serious cases the right to request a change of venue to the special chambers mentioned in the Article, thus eliminating what under Chinese law are called "minor cases." He further stated that the territorial jurisdiction of the modern courts of justice which are to assume jurisdiction over Americans had not been defined because the Chinese Government did not care to limit itself in the treaty in regard to this matter; the Chinese Government might be prepared, however, to make a unilateral declaration on the subject.

The matters having been brought to his attention by Mr. Hornbeck and Mr. Jacobs, Dr. Wu stated that he thought the word "may" in the second line of the second paragraph of Article I should be "shall" and that the word "having" in the ninth line of the second paragraph of Article I should be "have."

With regard to the employment of legal counsellors, Dr. Wu stated that the Chinese Government desired to have a free hand in their appointment and that it also desired to employ Chinese as well as foreigners in this capacity.

Dr. Wu stated that the Chinese Government was opposed to the provision for evocation and had omitted provision therefor from its counter proposals.

Dr. Wu then referred to a provision in the data handed him by Mr. Hornbeck in February, 1930, which provided that existing arrangements in the Settlements and Concessions were to be continued. He stated that this matter had puzzled his Government since there were a number of practices existing in the Settlements which it desired to change. He mentioned two such practices, namely, the question of the issuance of consular title deeds (Tao Chi) and the question of taxation of Chinese in the Settlements. Dr. Wu did, however, intimate that the Chinese Government might be prepared to continue the present status of the Settlements and Concessions as long as the administrative and municipal control thereof was in the hands of foreigners.

With regard to Article V, Dr. Wu stated that the Chinese Government had in contemplation a new land law and he intimated that, while

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<sup>78</sup> See document of January 23, 1930, p. 363.

it was prepared to recognize the rights of Americans in immovable property already legally acquired, some of these holdings might be questioned.

With regard to Article VIII, Dr. Wu stated that, while American citizens were given the most-favored nation treatment, it was also to be noted that citizens of the United States as well as other foreigners in China would be denied the right to invoke certain provisions of Chinese law. In other words, all foreigners were to be on an equal footing among themselves but not on an equal footing with Chinese.

With regard to Article X, Mr. Hornbeck pointed out that it would never be possible for this Government to agree to a provision requiring the ratification within three months of the treaty in which it appeared.

With regard to Annex I, Dr. Wu stated that the three-month period for the winding up of all cases pending in the American courts in China might not be considered rigid. In reply to an inquiry by Mr. Jacobs, Dr. Wu stated that he thought the words "final and definitive," in the fourth line of Annex I meant final and definitive according to American law.

With regard to Annex II, Dr. Wu pointed out wherein Americans would be exempted from certain provisions of the police offenses code in respect to detention in a first offense.

With regard to Annex V, Dr. Wu stated that if we insisted upon the application of American law in personal status cases, the Chinese Government preferred that the trials in such cases should take place outside of the territorial borders of China.

With regard to Annex VI, Dr. Wu stated that the interpreters referred to therein were to be employed by the court.

With regard to Annex VIII, Dr. Wu stated that the Chinese Government did not want to specify any *special* treatment for foreign prisoners.

Upon inquiry made by Mr. Hornbeck in regard to the nature of the two additional Articles in the counter proposals handed to the British Minister, Dr. Wu stated that he was not even aware that those counter proposals contained two more Articles than the ones presented to us.

Mr. Hornbeck thereupon stated that Dr. Wu had given us a good deal to think about. Dr. Wu assented.

The conversation turned to the question of "eggs" concerning which Dr. Wu has been conferring with the Department, and shortly ended.

J[OSEPH] E. J[ACOBS]



793.003/470b : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, December 11, 1930—5 p. m.

428. For the Minister: The Department's 419, December 8, 5 p. m.<sup>79</sup>

Department has been informed by Minister Wu that a copy of the Chinese Government's counter proposals, as presented to the Department by Minister Wu on December 7, has been handed to you. Please telegraph the differences between the text thereof and the text of the counter proposals handed, as reported by you,<sup>79</sup> to the British Minister on December 1.

STIMSON

793.003/475 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 16, 1930—3 p. m.

[Received December 17—9:50 a. m.<sup>80</sup>]

1050. Following from the Minister at Nanking:

"December 15, noon. Department's 428, December 11, 5 p. m. Article 1 of counterproposals handed to British Minister reads as follows:

'Beginning from January 1, 1930, British subjects in China shall be subject to the duly promulgated laws, ordinances and regulations in China and, other than as modified by the provisions of the present treaty and the annex thereto, they shall be subject to the jurisdiction of the modern Chinese law courts, with rights of appeal and in all other respects in accordance with law and established procedure.

Any of the modern courts already established or to be established in future in China may exercise jurisdiction in any civil or criminal cases where a British subject is defendant or accused.

In the district courts in Harbin, Shenyang, Tientsin, Shanghai, Hankow, Chungking, Canton and Kunming (Yunnanfu), and in the provincial high courts having direct appellate jurisdiction over such district courts, special chambers shall be established for dealing with cases involving British subjects as defendants or accused, which fall within the ordinary jurisdiction of the courts to which such special chambers are attached.

Any of those cases involving British subjects as defendants or accused, which originate within the ordinary jurisdiction of the courts other than those mentioned in the preceding paragraph, may, upon the written request of the defendant or accused made before trial begins, be transferred for adjudication, after the necessary preliminary steps, if any, having been taken, to the special chamber nearest to the court within whose jurisdiction the case originates.'

First four sentences of article 2 of British draft ending 'conditions necessary' are practically identical with the same four sentences of article 3 of American draft. British article 2 concludes with 'the legal counselors will be authorized to receive observations regarding the administration of justice in civil or criminal matters with a view to bringing such observations to the notice of the Minister of Justice. Similarly the legal counselors will be authorized to receive any observations regarding discontinuing vi-its, requisitions or arrests.'

<sup>79</sup> Telegram not printed.<sup>80</sup> Telegram in eight sections.

Article 3 of British counterproposals identical with article 4 of American.

Article 4 of British counterproposals reads as follows: 'British subjects in China shall be liable for the payment of such nondiscriminatory taxes or imposts as may be prescribed in the laws, ordinances and regulations of the central, provincial and municipal governments of China.'

Article 5 of British:

'Except in cases of *flagrante delicto*, British subjects in China shall not be arrested, detained or imprisoned without an order emanating from the Chinese judicial authorities.

A British [subject?] arrested in *flagrante delicto* for an act which is punishable under the criminal code or other criminal laws shall, within 24 hours after arrest, exclusive of holidays, be brought to the competent Chinese court for appropriate action.'

Article 6 of British counterproposals reads as follows: 'All rights in immovable property legally acquired and held by British subjects in China shall be recognized as valid in accordance with Chinese law and shall remain under the treaty subject to the exercise of the rights of eminent domain by the Chinese Government.'

Article 7 of the British counterproposals is practically identical with Article 6 of the American.

Article 8 of the British counterproposals reads as follows: 'British subjects in China shall not be subjected to any form of military service or to any tax or levy imposed as a substitute for military service or to military requisitions or contributions of any kind, nor shall they be compelled to subscribe to any public loan or other form of forced levies, provided that Chinese citizens in British territories shall enjoy similar exemptions.'

Article 9 of British counterproposals reads as follows: 'Upon application being made by the interested party or parties, the Chinese courts will recognize agreements entered into by British subjects between one another or with other foreign nationals or with Chinese citizens for the settlement of legal or commercial controversies by arbitration and will enforce awards made in pursuance thereof unless, in the opinion of the competent court, the award is contrary to public order or government morals or is vitiated on other grounds recognized by the general principles of law.'

Article 10 of British counterproposals is identical with article 14 [8?] of the American.

Article 11 of British counterproposals is identical with article 9 of the American.

Article 12 of the British counterproposals is the same as article 10 of American except that provision for term of five years is not the same.

First sentence of section 1 of annex of British counterproposals reads: 'All cases which have been finally and definitely settled in the consular or other courts in China before the coming into force of this treaty shall not be reopened, and all final judgments or decisions rendered in such cases shall be executed by the Chinese courts upon the request of the interested party or parties, unless they are considered detrimental to the sovereignty of China.' The rest of this section is the same as the American.

Section 2 of annex of British counterproposals reads: 'The chief judge of any of the special chambers provided in article 1 of this treaty shall be the president of the court to which the chamber belongs. Other judges of the special chamber as well as its procurators shall be selected from among legal scholars with thorough training and practical experience and with a broad knowledge of the general concepts of modern jurisprudence.'

Section 3 of annex of British counterproposals is the same as section 2 of the American, while sections 4, 5, 6 and 7 are the same as the corresponding sections in the annex to the American counterproposals."

For the Minister:  
PERKINS

793.003/476 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 17, 1930—7 p. m.  
[Received December 17—9:10 a. m.]

1054. Following from Minister Johnson at Nanking:

"December 17, 4 p. m. Minister of Foreign Affairs informed me this afternoon that there is being coded a document on the subject of extraterritoriality which should be handed to the Department by Wu in about two days. Dr. Wang would not tell me anything of the nature of this document except to say that it would not change the situation existing by reason of the recent exchange of proposals; that it was not to be published and that it was intended to speed up the negotiations."

For the Minister:  
PERKINS

793.003/476 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, December 17, 1930—6 p. m.

437. Legation's 1054, December 17, 7 p. m.

1. Department, studying question of possible next steps in extraterritoriality negotiations, is awaiting communication from Wu mentioned in your telegram under reference. Without initiating thought that in the event of negotiations being delayed, Chinese Government may take some unilateral action, Department desires of course to forestall any such possibility. Have you any opinion, without making inquiry, as to such action being in contemplation?

2. Department wishes that, if possible, and without initiating an express inquiry, you ascertain whether British Minister is planning any new move in the matter of negotiations in near future; also is he

still planning to leave China on December 30 as reported in Minister's December 1, 2 p. m., from Nanking, Legation's 1026? <sup>81</sup>

STIMSON

793.003/478 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 18, 1930—4 p. m.  
[Received December 18—8:45 a. m.]

1057. 1. Department's 437, December 17, 6 p. m., is being repeated to the Minister at Nanking (Legation's 1055, December 18, noon <sup>81</sup>).

2. British Minister plans to leave here December 26th and to return about middle of February. Chinese counterproposals have been forwarded to London for consideration. Lampson does not expect further instructions until about the time of his return here and meanwhile is not planning any new move in the matter of negotiations.

For the Minister:  
PERKINS

793.003/477 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 18, 1930—6 p. m.  
[Received December 18—9 a. m.]

1058. Legation's 1057, December 18, 4 p. m.

1. French Minister has been notified by his representative in Nanking of receipt from the Ministry of Foreign Affairs of proposals for the abolition of extraterritoriality as from January 1, 1930. Text comprises 10 articles and 7 annexes, provision being made for special sections in district courts for trial of French citizens and for advisers. The hope is expressed that the French Government will ratify these proposals by the end of February.

2. French Minister has received by telegram a memorandum in English which accompanied proposals and which he allowed me to read. It recalls the desire of the Chinese to abolish extraterritoriality, states that the Chinese Government, believing that the question can be settled by means of negotiation, wishes to dispose of the matter once for all and trusts that it will not be obliged to adopt other measures toward that end.

3. [Paraphrase.] Such a memorandum has not been received by the British or, so far as I am aware, by any other Legation. The French Minister regards it in the nature of an ultimatum. Replying to his

<sup>81</sup> Not printed.

inquiry, I said no such communication had reached the American Legation. If C. C. Wu's note should be similar in tenor, I trust this Legation may inform the French Minister of its substance.

4. Minister Johnson has been informed. [End paraphrase.]

For the Minister:

PERKINS

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793.003/489

*Memorandum by the Assistant Secretary of State (Castle)*

[WASHINGTON,] December 18, 1930.

The Chinese Minister came to see me today and brought up with me the question of extraterritoriality. He said that about ten days ago he had delivered to Mr. Hornbeck the counter proposition of the Chinese Government. He said he hoped the Secretary and I would study this proposition very sympathetically, that it went a long way toward satisfying the American desires in the matter. He pointed out that the Extraterritoriality Commission a few years ago<sup>83</sup> had spoken enthusiastically of the modern Chinese courts and said that the present proposition of the Chinese Government was to try cases involving foreigners only in these modern courts. He said that our position as to extraterritoriality was really an anomalous one, since for various historical reasons our own nationals were tried in courts of other countries where the system of justice was certainly inferior to that in China. He referred particularly to certain South American countries and to the Balkans. He reminded me that our treaty with China<sup>84</sup> expired in 1934 and, therefore, that in three and a half years we should have no more extraterritoriality in any case. This being so the Minister felt that it would be most advantageous for us to come to some agreement with the Chinese now, intimating that we could probably get better terms now than we could get in 1934. He said it was exactly as though he had still three months more to run on a lease and negotiated with the owner for an adjustment of the lease before the final term was up. The Minister added that he hoped he could have an answer to his counter proposal before the first of the year. I told him that the whole question was a very complicated [one], that, as he knew, it needed careful study which the Department was already giving to his proposals and that it seemed to me unlikely that we would be rushed into giving an answer until we had completed consideration. I asked him whether, since he was so eager for an answer before the first of the year, this meant there was any truth whatever in the rumors one heard in the press and elsewhere that China was thinking

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<sup>83</sup> See *Foreign Relations*, 1923, vol. I, pp. 966 ff.

<sup>84</sup> Signed at Shanghai, October 8, 1903; *ibid.*, 1903, p. 91.

of making a unilateral denunciation of the treaties at the end of the year. The Minister was distinctly embarrassed at this question. He said that many jurists reasoned that a contract might become invalidated and subject to unilateral denunciation because the conditions under which the original contract was made had entirely changed. I asked him if he agreed with this and he said that he must admit that the question was debatable. I then said that if that question was debatable, it is certainly much more debatable as to whether conditions in any contract had changed to such an extent that denunciation of the contract became possible. I told him that I thought he would find general world disapprobation of any attempt at unilateral denunciation of bilateral treaties. The Minister had no response to make to this, but urged me to take up the matter with the Secretary since China was exceedingly anxious to have our answer. I told him that I would bring the matter to the Secretary's attention promptly.

W. R. CASTLE, JR.

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793.003/481

*The Chinese Legation to the Department of State*

MEMORANDUM

Considerable time has elapsed since the initiation of negotiations concerning the assumption of jurisdiction by the Chinese Government over American citizens in China. It is to be regretted that no solution has yet been brought about as a result of the labor of the past several months. Much anxiety and uncertainty have consequently arisen in the mind of the Chinese people whose ever growing desire for the immediate recovery of China's jurisdictional sovereignty must needs be realized for the benefit of all concerned.

The proposals put forward by the American Government for the gradual abolition of extraterritoriality in China having been carefully considered by the Chinese Government and found unacceptable as they stand, the Chinese Minister had the honor on the 7th of December to hand to the Department of State China's counter-proposals on the subject under negotiation. The Chinese Government is now anxiously awaiting a favorable reply and it hopes that a satisfactory solution of the question will be reached by the end of February.

The Chinese Government still believes that it is possible to settle once for all the question of abolition by negotiation and that it will not be necessary for China to take a different course of action toward that end.

WASHINGTON, December 19, 1930.

793.003/481 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, December 19, 1930—7 p. m.

440. Legation's 1054, December 17, 7 p. m., and 1058, December 18, 6 p. m.

1. Department assumes that the proposals consisting of 10 articles and 7 annexes handed to the French Minister are similar to those presented to the Department on December 7 and to Minister Johnson on December 10.

2. Chinese Legation presented to the Department today a memorandum recalling the desire of the Chinese Government to abolish extraterritoriality; stating that the American proposals of October 28 were "unacceptable as they stand"; and expressing the hope "that a satisfactory solution of the question will be reached by the end of February". The last paragraph of the memorandum concludes: "The Chinese Government still believes that it is possible to settle once for all the question of abolition by negotiation and that it will not be necessary for China to take a different course of action toward that end."

3. You may inform French and British Ministers.

4. Inform Minister Johnson.

STIMSON

793.003/482 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 20, 1930—3 p. m.  
[Received December 20—9:25 a. m.]

1064. Department's 440, December 19, 7 p. m.

1. Following from the Minister at Nanking:

"Department's 437, December 17, 6 p. m. I am inclined to take seriously the statement made in the last paragraph of the document referred to in my December 17, 4 p. m.,<sup>85</sup> which I now understand has been handed to the Secretary by the Chinese Minister and I therefore believe that the American Government should take steps to forestall unilateral action by the Chinese. It is probable that the British Minister may change plans in view of the statements made in this document. An identical memorandum was communicated to him. Identical memorandum accompanied by proposals apparently along the lines of counterproposals given to us was sent to the French Minister on December 17th."

2. British Minister has just informed me of receipt of memorandum which he has telegraphed to London.

For the Minister:

PERKINS

<sup>85</sup> See telegram No. 1054, December 17, 7 p. m., from the Minister in China, p. 494.

793.003/483 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 21, 1930—4 p. m.

[Received December 21—7:02 a. m.]

1065. Legation's 1064, December 20, 3 p. m. Following from the Minister at Nanking.

"December 20, 11 a. m. Copy of document identical with one in English handed to Wilden<sup>86</sup> was given to me on the 18th and is going to you by hand of Ingram<sup>87</sup> leaving here on Sunday.<sup>88</sup> I have informed French Consul. I understand that similar documents were given to other interested countries but not to the Japanese."

For the Minister:

PERKINS

793.003/484 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 22, 1930—10 p. m.

[Received December 22—2:40 p. m.]

1073. Legation's 1058, December 18, 6 p. m. Following telegram has been sent to Minister Johnson at Nanking:

"December 22, 7 p. m. French Minister has received instructions from his Government in reply to the [omission]'s suggestion of a year ago that the Chinese submit concrete proposals regarding extra-territoriality; that the proposals made to Wilden last month at Nanking have been forwarded to Paris for consideration and that the French Government is reluctant to believe that the Chinese will compromise international relations by unilateral action as intimated in the last sentence of the memorandum.

2. Netherlands Minister, who has received same document as the French, purposes to seek authority to make a similar reply."

For the Minister:

PERKINS

<sup>86</sup> Henri A. Wilden, French Minister in China.

<sup>87</sup> Edward M. B. Ingram, Counselor of British Legation in China.

<sup>88</sup> December 21.



793.003/487 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, [December 23, 1930.]

[Received December 23—7:38 a. m.]

1076. Legation's 1073, December 22, 10 p. m. Following sent Minister at Nanking:

"December 23, 1 p. m. [Paraphrase.] It is the opinion of all the interested Ministers here that the recent memorandum from the Chinese must be taken seriously and that it is intended by the Chinese, when the indicated period expires, to force the extraterritoriality issue both by taking advantage of such incidents as may be practicable and by acts of provocation in fiscal matters, etc. On December 21, I am informed, Ingram was told in very plain terms by C. T. Wang that his Government had considered the matter fully and that it was believed by the Chinese that world public opinion would be entirely sympathetic to them, in spite of the legal position of the treaty powers being technically correct. The Department informed. [End paraphrase.]"

For the Minister:

PERKINS

793.003/481

*The Department of State to the Chinese Legation*

## MEMORANDUM

The Department of State has received the memorandum communicated by the Chinese Legation on December 19, 1930, in regard to negotiations on the subject of extraterritorial jurisdiction.

On April 27, 1929, the Minister for Foreign Affairs of the Chinese Government addressed to the American Minister to China a note<sup>89</sup> which concludes with the statement:

"As the American Government has always maintained a friendly attitude towards China and has always shown its readiness in the adoption of measures for the removal of limitations on China's sovereignty, the Chinese Government is happy to express to the American Government the desire of China to have the restrictions on her jurisdictional sovereignty removed at the earliest possible date and confidently hopes that the American Government will take this desire of China into immediate and sympathetic consideration and favor it with an early reply so that steps may be taken to enable China, now unified and with a strong Central Government, to rightfully assume jurisdiction over all nationals within her domain."

<sup>89</sup> See note of May 2, 1929, from the Chinese Minister, *Foreign Relations*, 1929, vol. II, p. 559.

On August 10, 1929, the American Government replied in a note addressed by the American Minister to the Minister for Foreign Affairs,<sup>90</sup> which concludes with the statement:

"Animated as it is by the most friendly motives, and wishing as far as lies within its power to be helpful, the American Government would be ready, if the suggestion should meet with the approval of the Chinese Government, to participate in negotiations which would have as their object the devising of a method for the gradual relinquishment of extraterritorial rights either as to designated territorial areas or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment and effective enforcement of laws based on modern concepts of jurisprudence."

Under date September 5, 1929, the Chinese Government replied in a note<sup>91</sup> which concludes with the statement:

" . . . the Chinese Government requests the American Government to enter into immediate discussions with authorized representatives of the Chinese Government for making the necessary arrangement whereby extraterritoriality in China will be abolished to the mutual satisfaction of both Governments."

Under date November 1, 1929, the American Government replied in a note<sup>92</sup> which concludes with the statement:

" . . . my Government is prepared to enter into negotiations, when convenient to the Chinese Government, which shall have as their object, as indicated in the concluding paragraph of my note of August 10, 'the devising of a method for the gradual relinquishment of extraterritorial rights either as to designated territorial areas or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment and effective enforcement of laws based on modern concepts of jurisprudence.' "

On the basis of this exchange of communications, negotiations, looking toward the conclusion of an agreement, whereby alone it will be possible to make, as requested by the Chinese Government, "the necessary arrangements whereby extraterritoriality in China will be abolished to the mutual satisfaction of both Governments", were begun and are in progress.

Although some time has elapsed since the initiation of negotiations, it is but a few weeks since the first comprehensive project offered by either Government was submitted for the consideration of the other, this project being that which was submitted by the Department of

<sup>90</sup> See *ibid.*, p. 599, footnote 96.

<sup>91</sup> See telegram No. 811, September 10, 1929, from the Minister in China, *ibid.*, p. 604.

<sup>92</sup> See telegram No. 958, November 4, 1929, from the Minister in China, *ibid.*, p. 616.

State to the Chinese Minister on October 28 for communication to the Chinese Government; and it is less than four weeks since the first comprehensive project offered by the Chinese Government was submitted for the consideration of the American Government, this project being that which was communicated, as stated in the memorandum under reference, in the form of counter-proposals, by the Chinese Minister on behalf of his Government to the Department of State on December 7.

Both of these projects are now being studied by the Department of State and it is expected that in due course, though no date can as yet be set, the views of the Department, based on this further study, will be communicated.

The American Government concurs in the view of the Chinese Government, as expressed in the Legation's memorandum under reference, that it is possible to settle this question by negotiation; in fact the American Government knows of no other process by which it would be possible to dispose of American extraterritorial rights in China "to the mutual satisfaction of both Governments"; and the American Government is confident that the Chinese Government shares with it the desire that the necessary arrangements shall be made in a manner not only satisfactory to both Governments but calculated to safeguard and promote the best interests of the people of both countries and to strengthen the traditional bond of friendship which, as the Chinese Government has said, "has not only a common material basis but is also deeply rooted in the idealism which is common to the Chinese and the American people."

WASHINGTON, December 27, 1930.

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793.003/481 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, December 27, 1930—6 p. m.

448. For the Minister: Reference to Department's No. 445, December 24, 7 p. m.<sup>93</sup>

Department has handed to the Chinese Legation this day a memorandum in reply to the Chinese Legation's memorandum of December 19.

Although the Chinese Legation has informed the Department that the text of the memorandum will probably be cabled to Nanking tonight, you should inform the Minister for Foreign Affairs of the above and hand him informally a memorandum giving this text.

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<sup>93</sup> Not printed.

[Here follows text of memorandum printed *supra*.]

You may inform your most interested colleagues of the general tenor of the memorandum. Department will inform the Embassy at London for communication to the British Foreign Office.

STIMSON

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793.003/481 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, December 29, 1930—6 p. m.

450. For the Minister : Department's 448, December 27, 6 p. m.

Chinese Minister expressly requests this morning that Department ask American Minister to give to the Minister of Foreign Affairs a full text copy of Department's memorandum to the Legation.

STIMSON

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793.003/481 : Telegram

*The Secretary of State to the Ambassador in Great Britain (Dawes)*

WASHINGTON, December 29, 1930—6 p. m.

331. 1. Chinese Legation handed Department on December 19 a memorandum in regard to negotiations on extraterritorial jurisdiction.

[Here follows a summary of the memorandum of December 19, 1930, from the Chinese Legation, printed on page 497.]

The Department on December 27 handed the Chinese Legation a memorandum in reply, the first paragraph of which reads as follows :

[Here follows the text of the first paragraph and a list of the correspondence cited in the second, third, fourth, and fifth paragraphs of the memorandum of December 27, 1930, to the Chinese Legation, printed on page 500.]

The memorandum then continues as follows :

[Here follows the text of the last four paragraphs of the memorandum under reference.]

Department has telegraphed text to the American Minister to China directing him to inform Chinese Minister for Foreign Affairs and hand him informally a copy.

You should inform the Foreign Office in confidence of the above.

2. Department expects to telegraph you shortly certain comments.

STIMSON

793.003/490b : Telegram

*The Secretary of State to the Ambassador in Great Britain (Dawes)*

WASHINGTON, December 31, 1930—1 p. m.

334. Department's No. 331, December 29, 6 p. m. While not intending to be precipitated . . . into any hasty action, the Department believes that the situation in China has developed to a point which makes it advisable to manifest a more definite interest in the possibility of arriving at an agreement with the Chinese Government on the subject of extraterritoriality. What action the Chinese Government may have in contemplation or may take at the end of February is problematical. If, by chance, it should choose to declare extraterritorial rights abolished, the problem which would then confront the most interested foreign powers would be a difficult one to meet. If, however, as seems more likely, it should decide to let the matter rest, the problem presented toward the end of 1933, if new agreements have not been concluded in the interval, might be even more difficult to meet. The Department believes that the opportunity for concluding new treaties which will in some measure preserve existing safeguards is better now than it is likely to be later.

The Department believes that any power or powers which will manifest to the Chinese Government a real desire to bring the negotiations to the point of an agreement at a fairly early date would find the Chinese Foreign Office responsive, and that the conclusion of a treaty under these circumstances would be likely, provided the provisions thereof are reasonably comprehensive, to be to the advantage of all concerned.

The Department therefore is working on a revision of the drafts of June 4 and October 28, with a view to making the Chinese a new proposal. It contemplates dropping the provision with regard to evocation; deleting certain other minor provisions; and making use at certain points of phraseology used in the Chinese counter-proposals of December 7. Department will expect to inform the British Foreign Office through you of any other material changes in substance and not to submit new proposals to the Chinese without first conferring through you with the Foreign Office.

Department would welcome through you and at an early date any comments which the Foreign Office may show itself inclined to make.

STIMSON

793.003/490a : Telegram

*The Secretary of State to the Minister in China (Johnson)*

[Paraphrase]

WASHINGTON, December 31, 1930—6 p. m.

452. For the Minister: Department's 448, December 27, 6 p. m.

[Here follows text of telegram 334, December 31, 1930, to the Ambassador in Great Britain, as printed *supra*, but omitting the last two sentences.]

In view of the British Minister's reported intention to be absent for some time from China, it is the Department's expectation to confer through the Embassy in London with the British Foreign Office, and the Embassy there has been informed along the above indicated lines. The British Minister or Legation should be informed by you.

Has Sir Miles Lampson left China?

Your comments would be welcomed by the Department.

STIMSON

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JURISDICTION OVER AMERICAN CITIZENS IN CHINA

393.1121 Libby, Walter/3

*The American Minister in China (MacMurray) to the Chinese Minister for Foreign Affairs (C. T. Wang)*<sup>94</sup>

No. 869

PEIPING, September 13, 1929.

EXCELLENCY: I have the honor to inform Your Excellency that in a telegram dated September 1, 1929,<sup>95</sup> the American Consul General at Hankow has informed me of the attempt of the Chinese authorities at Nanchang, Kiangsi, to arrest Dr. Walter Libby, an American citizen, of the Nanchang General Hospital of the Methodist Mission, on a charge of causing the death of a fifteen year old Chinese boy.

It appears that the boy in question was in a seriously run-down condition when first brought to the hospital, where he was twice operated on by Dr. Libby for boils. Becoming dissatisfied with the handling of the case, the father of the boy took him home and summoned Chinese doctors to treat him. Three days later, on May 9, 1929, the boy died. In the light of subsequent developments in this case, I desire to bring to Your Excellency's attention the following significant facts:

There is in Nanchang a medical association consisting of Chinese doctors in the city, certain of whom have some knowledge of Western medical practice, and one of whom, at least, was discharged from the

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<sup>94</sup> Copy transmitted to the Department by the Minister in his despatch No. 2320, September 13, 1929; received October 11.

<sup>95</sup> Not printed.

Nanchang General Hospital several years ago because of conduct which made it impossible for the Methodist Mission to retain his services. He has been an enemy of the hospital ever since this time, and this whole group of doctors has in a number of instances endeavored to discredit the work of the hospital, which in its philanthropic work accepts hundreds of patients who would otherwise go to them. It appears that the father of the boy who died was acquainted with certain of the doctors in the medical association, and that subsequently to the boy's death, they persuaded him, after a delay of three weeks, to write a letter to Dr. Libby blaming him for the death of the boy. There then ensued a very active agitation against Dr. Libby and the hospital, this including the wide-spread distribution of printed circulars attacking Dr. Libby and those connected with him in his work. In this agitation the Chinese practitioner who had been discharged by the hospital several years ago was extremely active.

This agitation culminated in the summoning, on August 27th, of Dr. Libby and Dr. Wu, Superintendent of the hospital, to appear before the Nanchang Local Court on the grave charge of "manslaughter and concealment of proof". Dr. Libby, being an American citizen and not subject to the jurisdiction of this Chinese court, declined to go and proceeded to Hankow, where he personally reported the case in detail to the American Consul General, who promptly lodged telegraphic protest with the Nanchang authorities, informing them that, if the father of the boy had any grievance against Dr. Libby, he had recourse to the American judicial authorities.

Dr. Wu, the Chinese Superintendent of the hospital, appeared in court, however, as directed, and testified that he had nothing to do with the case and so was not in a position to surrender the American hospital's medical history of the case, as directed by the Nanchang Court. According to the latest advices received by the American Consul General at Hankow on September 4th, the Court had then ordered the Chinese Superintendent of the hospital to produce the medical record of the case within a period of three days.

I bring this case to the attention of Your Excellency with the request that you will issue appropriate instructions to the Nanchang authorities, informing them that, if the father of the deceased boy has any grievance against Dr. Libby, the matter should be referred to the American judicial authorities (as notified to the Nanchang authorities by Consul General Lockhart), and that they (the Nanchang authorities) should follow established procedure and desist from their efforts to take direct jurisdiction over this American citizen or the Nanchang General Hospital, which is an American institution and, as such, subject solely to the jurisdiction of the American Courts.

I avail myself [etc.]

J. V. A. MACMURRAY

393.1121 Libby, Walter/5

*The Minister in China (MacMurray) to the Consul General at Hankow (Lockhart)*<sup>96</sup>

PEIPING, October 31, 1929.

SIR: I beg leave to acknowledge the receipt of your despatch No. 852, of October 16, 1929,<sup>97</sup> concerning the charges against Dr. W. E. Libby of the Nanchang General Hospital, in which you refer particularly to the action of Dr. Libby in allowing judges of the Chinese court to visit the hospital and question him concerning the case. You request the views of the Legation before commenting to Dr. Libby upon such action.

The Legation does not find itself in entire accord with the views set forth in the despatch under acknowledgment with regard to the conduct of Dr. Libby. There were apparently no charges made against Dr. Libby, the case being against Dr. Wu, the Chinese superintendent of the hospital, who is a citizen of China. In these circumstances, if the Chinese authorities had asked to have Dr. Libby summoned as a witness in the case, it would appear that the Consular Court could not well have declined to subpoena him to attend in that capacity. On the contrary, however, the court actually visited Dr. Libby at the hospital and informally obtained his evidence. In view of these facts, the Legation does not believe that the Chinese can rightfully claim that Dr. Libby submitted himself to the jurisdiction of the court. Therefore, it would hardly appear necessary for you to comment to Dr. Libby upon his action in the matter unless they are endeavoring falsely to make him out as a defendant in the case.

I am [etc.]

J. V. A. MACMURRAY

393.1121 Smit, Albert H./1 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, February 5, 1930—1 p. m.

[Received February 5—7:18 a. m.<sup>98</sup>]

106. 1. Following from American Consul, Nanking:  
(Sent to Shanghai for the information of Minister.)

"February 4, 6 p. m. Albert H. Smit, an American citizen, of the Christian Reformed Church Mission, Jukao, Kiangsu, informs me that on January 28, while he was driving his automobile from Jukao to Tungchow, his car struck and knocked down a Chinese who subsequently died as the result of injuries received during the accident.

<sup>96</sup> Copy transmitted to the Department by the Minister in his despatch No. 2408, October 31, 1929; received December 6.

<sup>97</sup> Not printed.

<sup>98</sup> Telegram in two sections.



Smit reports that at the time of the accident his car was traveling at the rate of 30 miles an hour on paved road. Four other Americans and one Chinese were in the car when the accident occurred.

Smit and car were taken into custody by the Tungchow police who questioned Smit and three other Americans and one of the Chinese [*the one Chinese?*] in the car. Following this Smit and his car were released, allowed to return to Jukao under a guarantee by Dr. G. L. Hagman, an American resident of Tungchow, that he would produce Smit and the car in Tungchow if and when the Chinese police so demanded.

Smit is indirectly informed that local Chinese plan to write Nanking for instructions.

I am telegraphing Smit advising him to proceed immediately to Shanghai and report the matter to the District Attorney. I respectfully suggest that the Legation request the District Attorney promptly to institute proceedings against Smit. My reason for this recommendation is to forestall any complications that may arise through possible attempt by the Chinese to take jurisdiction over Smit.

I have not received any communication from the Chinese in the matter."

2. I have sent the following to American Consul General at Shanghai:

"February 5, noon. Nanking's February 4, 6 p. m., 4th paragraph. Should Minister Johnson not have acted, please consult the District Attorney informally and report by telegraph."

For the Minister:

HAWES

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393.1121 Smit, Albert H./2 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, February 6, 1930—8 p. m.

[Received February 6—10:25 a. m.]

108. My 106, February 5, 1 p. m. Following from American Consul General at Shanghai:

"February 6, 10 a. m. The Legation's February 5, noon, concerning Smit. The Minister approved the suggestion of the Nanking Consulate and directed that the matter be referred to the District Attorney, who, after interrogating two American eyewitnesses from Tungchow, does not consider that the facts warrant his arrest or prosecution on a charge of manslaughter. He has, however, telegraphed Smit, through one of the witnesses referred to, to come to Shanghai for an interview.

Today is the date set for an investigation by the Chinese authorities at Tungchow which Smit must attend in accordance with the provisions of the bond given at time of his release. It is the opinion of this

office and of the District Attorney that he might attend as a witness but in no other capacity. Repeated to Nanking."

For the Minister :  
HEWES

393.1121 Smit, Albert H./3 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, February 12, 1930—3 p. m.  
[Received February 12—11:05 a. m.]

122. Legation's 108 [106], February 5, 1 p. m. Adams<sup>99</sup> has telegraphically reported as follows:

"The Chinese issue of February 8 of the Peiping-Shanghai [*Shanghai?*] *Times* states that on February 6 a hearing in the Smit case was conducted by Deputy Tang from Tungchow; that a relative of the deceased and the accused were examined; and that on February 8th a re-hearing would be held at which time a decision would be given. A letter received by me today from Tungchow corroborates this report. The letter states that Smit went to Tungchow to appear before the Chinese officials on February 5th.

Unless later and more favorable information has been received by the Legation from Shanghai I respectfully request sending Consul Meyer<sup>1</sup> to Tungchow by naval transportation, reporting direct to the Legation on case. I also suggest that after receipt of his report he make such local representations as the Legation may authorize.

Naval transportation for Meyer will be arranged by the senior naval officer present."

I am replying that Meyer should proceed at once to Tungchow, being governed by paragraphs 2, 3 and 4 of the Department's 49, February 8, 1 p. m.<sup>2</sup>

JOHNSON

393.1121 Smit, Albert H./4 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, February 15, 1930—3 p. m.  
[Received February 16—2:58 a. m.<sup>3</sup>]

131. Legation's 122, February 12, 3 p. m. Following telegram has been received from Meyer on board U.S.S. *Pillsbury*, Tungchow:

"February 14, 9 p. m. Judgment of the Tungchow Magistrate's Court, dated February 8th, but not delivered until today, holds Smit partially to blame for the accident and imposes a fine of \$100 or 50

<sup>99</sup> Walter A. Adams, Consul at Nanking.

<sup>1</sup> Paul W. Meyer, Consul at Nanking.

<sup>2</sup> Not printed.

<sup>3</sup> Telegram in three sections.

days in jail (1 day in jail for each \$2 of fine). Appeal must be filed within 10 days. Private settlement with family of the deceased is being arranged.

Little interest has been shown in the case by the local people, and there has been no attempt by radicals to use it for propaganda purposes. Am informed that the judgment is similar to those rendered by same court in like cases [in] which Chinese were defendants. Smit arrived here from Jukow today and is leaving early tomorrow on a Japanese steamer for Shanghai where he will report his presence to the American Consul General. He has not yet paid the fine, and I have advised him not to do so until the matter has been referred to the Legation.

After Smit's departure from Tungchow tomorrow morning my return to Nanking would appear warranted. Am now aboard U.S.S. *Pillsbury* to which I transferred this evening."

Legation proposes to telegraph Nanking suggesting that with or without the cooperation of the District Attorney he might hold in his judicial capacity a preliminary investigation committing Smit for trial in the United States Court for China if presumptive evidence of an offense more serious than [than] constitute[s] class over which Consulate has jurisdiction is developed.

If the Department approves, I also propose to address a note to the Ministry of Foreign Affairs reciting the facts of this case, pointing out American nationals in China enjoy extraterritorial status, and suggesting that it communicate with the Ministry of Justice to the end that Tungchow Magistrate's Court be instructed that it has no jurisdiction. It would seem desirable, in addition, to invite the attention of the Ministry of Foreign Affairs to the adverse effect which incidents of this nature will have on Sino-American relations in general and on the negotiations now taking place looking to the eventual relinquishment by the American Government of extraterritorial rights in China and expressing the hope that the appropriate authorities all over the country be reminded that the right of jurisdiction over American citizens is vested solely in the appropriate American authorities.

Department's instructions are requested at earliest possible date.

JOHNSON

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393.1121 Smit, Albert H./5 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, February 17, 1930—5 p. m.

63. Your 131, February 15, 3 p. m.

1. Department desires that Nanking inform Department by radio what action if any was taken by Meyer.

2. Department approves your proposed telegram to Nanking Consulate suggesting that Consul act in his judicial capacity.

3. Department desires that Smit be asked not to pay the fine and to keep out of Tungchow magistrate's jurisdiction pending settlement and that Consul assist in steps which may be taken to arrange for private settlement in nature of a compassionate grant on Smit's part with family of deceased.

4. Department disapproves your proposal for note to Ministry of Foreign Affairs at this stage. Department believes it would be better for the time being to take no cognizance of the action of the Tungchow Magistrate's Court and, except as indicated above, to take no steps until after your arrival at Nanking, at which time at the earliest possible moment you should take the question up orally with the Minister for Foreign Affairs in the light of developments between now and then.

5. Department will at once inform Chinese Minister here concerning the facts in the case, will state that it does not recognize right of Chinese court to take jurisdiction, that you will take the matter up with Foreign Minister when you arrive at Nanking, and that this Government hopes this case will not be permitted to lead to the creating of an issue between the two Governments.

COTTON

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393.1121 Smit, Albert H./7

*The Department of State to the Chinese Legation*

The Department has been informed that on January 28 an American national, Mr. Smit, driving a motor car in which there were three other Americans and one Chinese, near Tungchow in Kiangsu Province, collided with a Chinese coolie, and that as a result of this collision the Chinese coolie died. Chinese police seized the motor car and its passengers but, on the guarantee of one of the Americans that Smit and the car would be produced before Chinese authorities, released Smit and his companions. Subsequently, Smit was summoned by and appeared before the Chinese Magistrate at Tungchow (in Kiangsu). On February 14 the Magistrate's Court delivered a judgment dated February 8 to the effect that Smit was partially responsible for the accident and imposing on Smit a fine of \$100 or fifty days in jail.

American nationals, under the provisions of existing treaties, are not subject to the jurisdiction of Chinese courts. The American Government has given instructions that the American Consul at Nanking act in the case in his judicial capacity and that the American Minister upon his arrival in Nanking in the near future take this matter up with the Chinese Minister of Foreign Affairs. Needless to say, the American Government hopes that this case will not lead to the creating of an issue between the two Governments.

WASHINGTON, February 17, 1930.

393.1121 Smit, Albert H./6 : Telegram .

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, February 18, 1930—5 p. m.  
[Received February 18—2:25 p. m.\*]

137. Legation's 131, Feb. 15, 3 p. m.

1. In a despatch, dated February 12th, Cunningham states that the Smit case has been discussed with the District Attorney who "does not feel that the information placed before him warrants the prosecution of Mr. Smit on a criminal charge. With reference to the question of the advisability of prosecuting Mr. Smit irrespective of whether or not criminal negligence might reasonably be attributed to him in connection with this accident, in order that the American authorities could confirm their jurisdiction over Mr. Smit and at the same time confront the Chinese authorities with a judicial decision in the case, Mr. Sellett was of the opinion, in which this office concurs, that on account of the publicity incidental to the trial of such a case in Shanghai more ill feeling would be stirred up by an inevitable acquittal than by failure to prosecute."

2. Notwithstanding the opinion expressed by the District Attorney and the Consul General at Shanghai, the Legation adheres to the view that the Consul at Nanking (district [in which] the incident occurred) might very properly hold a fresh investigation with a view to determining whether under American law any offense has been committed by Smit. In view of the fact that local Chinese court has already reviewed the facts and handed down a judgment it seems to me that only through some judicial action by the American authorities concerned can we hope to avoid the charge that we are attempting to shield Smit by refusing to prosecute while at the same time demanding that the Chinese set aside the judgment against him on the ground of the case being beyond the scope of their jurisdiction.

JOHNSON

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393.1121 Smit, Albert H./8 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, February 20, 1930—5 p. m.

71. Legation's 137, February 18, 5 p. m.

1. Full instructions given in Department's 63, February 17, 5 p. m.

2. Department concurs in view expressed in your paragraph 2, but queries the point "demanding that the Chinese set aside the judgment". Department hopes that it will be possible for you to work the matter out with the Chinese Government so that the action of the Chinese Magistrate will be ignored without formal action in regard thereto.

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\*Telegram in two sections.

3. Department has discussed the matter with Chinese Minister here, and there is concurrence in the hope that the matter will be settled after your arrival in Nanking without leading to the creation of an issue.

COTTON

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393.1121 Smit, Albert H./9 : Telegram

*The Consul at Nanking (Adams) to the Secretary of State*

NANKING, February 21, 1930—9 a. m.

[Received 4:50 p. m.<sup>5</sup>]

10. Referring to Department's No. 69 [63], February 17, 5 p. m. to Legation.

1. Smit is now in Shanghai and is being requested through American Consulate there not to pay fine and not to return to Tungchow Magistrate's district pending settlement of his case.

2. Meyer made no representations to local authorities at Tungchow since upon his arrival there the trial of Smit was concluded and since Smit was proceeding immediately to Shanghai without having paid fine and without having agreed to do so.

3. Meyer ascertained that Smit had reached the full private settlement of the case with family of the deceased by the payment of Mexican \$300 covered by receipt.

4. If District Attorney is willing to initiate American court proceedings against Smit I propose to hold preliminary hearing, provided Smit returns to my jurisdiction. The question of Smit coming voluntarily to Nanking, by way of the District Attorney, has been taken up through Shanghai Consulate General.

5. Report, accompanied by privately obtained copy of Tungchow Magistrate's judgment, follows by mail.<sup>6</sup>

6. Legation and Shanghai informed.

ADAMS

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393.1121 Smit, Albert H./10 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 1, 1930—11 a. m.

[Received March 1—4:40 a. m.]

162. Following from Minister Johnson, dated Nanking February 28, 5 p. m.:

"Please repeat the following to the Department: 'Your February 20, 5 p. m. In the course of an interview on February 26th I informed

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<sup>5</sup> Telegram in two sections.

<sup>6</sup> Not printed.

the Minister for Foreign Affairs that American Government without wishing to make an issue of the Smit case had instructed me to say that it takes the attitude that Chinese Courts have no jurisdiction over American citizens in such matters since the treaty conferring extraterritorial privileges on American citizens in China is still in effect. Dr. Wang stated that the Chinese Government was not at all desirous of testing the extraterritorial question with the United States at this time and that his Government likewise did not wish to make an issue of the Smit case which he had thought had been settled satisfactorily. He added that he would make inquiry in regard to it."

For the Minister:  
PERKINS

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393.1121 Smit, Albert H./12: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 4, 1930—2 p. m.  
[Received March 4—9 a. m.]

171. Nanking's 10, February 21, 9 a. m. Cunningham has reported as follows:

"On February 17th, 1930, Mr. Albert H. Smit, in giving an account of the accident, made the statement that 'we did not know exactly what the American Government would want us to do', when it was proposed that a bond should be given by Dr. Hagman for the appearance of Mr. Smit at a Chinese court. In explanation of his meaning he stated that 'we had been advised that extraterritoriality had ceased', and though he realized that the pronouncement had been a unilateral one by the National Government, he stated that 'there was a statement by the American Government that it would be gradually relinquished and we were up against it.'"

Cunningham suggests the possibility that other missionaries in China may have similar misapprehensions and he suggests that a statement be issued by the Minister setting forth clearly the American Government's attitude as to the Nanking Government's mandate of December 28, 1929,<sup>8</sup> for circulation to missionary societies for transmission to their members throughout China.

For the Minister:  
PERKINS

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<sup>1</sup> Telegram in two sections.

<sup>8</sup> See telegram of December 28, 1929, from the Consul at Nanking, *Foreign Relations*, 11:20, vol. II, p. 666.

393.1121 Libby, Walter/7

*The Acting Secretary of State to the Minister in China (Johnson)*

No. 32

WASHINGTON, March 8, 1930.

SIR: The Department has received the Legation's despatch No. 2546, of January 22, 1930, transmitting copies of correspondence between the Legation and the Consulate General at Hankow<sup>9</sup> in regard to charges brought against Dr. W. E. Libby, of the Nanchang General Hospital.

The Department is glad to note from an inspection of the enclosures with this despatch that the procurator of the Nanchang District Court, in a judgment issued October 18, 1929, decided that the Court had no right to assume jurisdiction over Dr. Libby "prior to the modification of the existing treaties between China and the United States". This satisfactory disposition of the charges brought against an American citizen in a Chinese Court seems to have been due in large part to the prompt action taken by the Legation and the Consulate General at Hankow. The Department commends the Legation and the American Consul General at Hankow for the efficiency displayed in the handling of this case.

A copy of this instruction is enclosed for transmission to Mr. Lockhart.

I am [etc.]

For the Acting Secretary of State:  
FRANCIS WHITE

393.1121 Smit, Albert H./14: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, March 9, 1930—noon.

[Received March 9—6:32 a. m.]

184. Following from Minister Johnson dated Shanghai, March 8, 2 p. m.:

"Please repeat the following to the Department: 'Your 84, March 4, 7 p. m.<sup>10</sup> I share the feeling of the District Attorney that the investigation should proceed, and recommend that requisition of funds be arranged as outlined in Porter's telegram of March 3, 4 p. m.,<sup>10</sup> it being desirable (1) that all evidence should be before the district attorney for the purpose of determining whether there is any basis for criminal prosecution and (2) in order to show that a thorough investigation has been made'".

For the Minister:  
PERKINS

<sup>9</sup> None printed.

<sup>10</sup> Not printed.



393.1121 Smit, Albert H./30

*Memorandum by the Minister in China (Johnson)*<sup>11</sup>

[SHANGHAI,] March 11, 1930.

I had a conversation today with Dr. Sellett, United States District Attorney, on the subject of the Smit case. Dr. Sellett stated that Mr. Smit was coming to see him and wanted to return to his station. He said that Smit had stated that everything was settled and he felt quite confident that the Chinese would not collect the fine imposed, and that he would have no trouble in returning.

I told Dr. Sellett I thought we should neither encourage nor discourage him in the matter of returning, that if he wished to return, he should be allowed to do so, but that we should advise him neither one way nor the other. I thought we should give him to understand that the matter was being investigated and if we should need his presence here, we could ask him to return.

Dr. Sellett had in his hand a copy of Mr. Smit's motorcar license, stating that the authorities had cancelled it. I said that it seemed to me this was a matter about which we should not concern ourselves, that it was quite within the province of the Chinese to issue or refuse to issue a motorcar license without giving cause. Dr. Sellett agreed with me in this.

393.1121 Smit, Albert H./19: Telegram

*The Acting Secretary of State to the Consul at Nanking (Adams)*

WASHINGTON, March 11, 1930—6 p. m.

6. For the Minister: Your telegram dated Shanghai March 8, 2 p. m., to Legation.<sup>12</sup>

1. Department is arranging for requisition for \$100 requested by Porter.

2. However, with regard to the objective indicated, the Department would call attention to the manifest desire of both Governments that this case be not permitted to lead to the creating of an issue between the Governments; and Department suggests for your consideration that Consul at Nanking and District Attorney might be able to dispose of the case in a manner ensuring avoidance of further publicity. Department hopes that you will personally maintain an advisory contact with this case until it is settled.

COTTON

<sup>11</sup> Copy transmitted to the Department without covering despatch; received May 8, 1930.

<sup>12</sup> See telegram No. 184, March 9, from the Minister in China, p. 515.

393.1121 Smit, Albert H./18 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, March 12, 1930—noon.

92. Your 171, March 4, 2 p.m. It is presumed that American consular officers in China have advised American citizens in the general sense of the Department's telegrams No. 435 of December 31, noon,<sup>13</sup> No. 4 of January 4, 7 p. m., and No. 49 of February 8, 1 p. m.<sup>14</sup>

With a view to ensuring a clear understanding on the part of American citizens concerned, with regard to the legal status of American citizens in China and the American Government's position, the Department is communicating to American missionary interests in the United States a statement of its position; and the Department desires that the Legation transmit the same to the American consular officers in China for communication to American citizens resident in the various consular districts. Text follows:

"In view of apparent uncertainty and some misapprehensions on the part of American citizens with regard to the present legal status of American nationals resident in China, you are informed that the Department of State does not regard the action taken by the Chinese Government on December 28 and December 30, 1929, as having altered the legal status of American citizens in China.

The question of gradual relinquishment by the United States of rights of extraterritorial jurisdiction in China is at present a subject of study between the two Governments. As yet, no agreement has been arrived at; there has been no surrender by the American Government to the Chinese Government of the former's rights of jurisdiction over American citizens in China or of the rights of American citizens, under the treaties, in China. It is apparent that enjoyment of these rights is not in all cases insisted upon and that various American nationals or American organizations have in a number of cases and on various grounds refrained from availing themselves of their rights. However, in point of law, these rights remain unimpaired and, as heretofore, American citizens in China, in all cases in which they are defendants, continue to be subject exclusively to the jurisdiction of American courts administering the applicable laws of the United States.

In the event that Chinese authorities attempt to take jurisdiction over an American citizen, notification should be made immediately to the American consular officer for the district in which such attempt is made, in order that appropriate action may be taken by the American consular officer concerned."

COTTON

<sup>13</sup> *Foreign Relations*, 1929, vol. II, p. 671.

<sup>14</sup> Latter two not printed.

393.1121 Smit, Albert H./26 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, April 7, 1930—3 p. m.  
 [Received April 7—9:05 a. m.<sup>15</sup>]

252. Your 122, April 5, noon.<sup>16</sup> Smit case stands now as follows: Smit paid \$300 solatium. He has not paid fine so far as I know. I believe he has returned to his district. District Attorney was making investigation but up to the time I left he had not been able to find sufficient evidence to warrant proceeding against Smit, interested Chinese witnesses being boat people and having gone about their affairs. Local authorities canceled Smit's license to operate motorcar. I believe this to be within their power and have made no objection. I do not propose to intercede on the behalf of Smit to obtain new license.

I informed Foreign Minister orally that we did not recognize jurisdiction of court and that I had informed Smit that he did not need to pay fine. I do not believe Smit will suffer further difficulties. I consider case closed unless Chinese attempt to force Smit to pay fine, in which I shall of course have to intervene.

It is my present intention to leave Peiping for Nanking about May 3rd. I desire to take with me private secretary and Denby as before. Margetts, new Military Attaché, will also accompany me as I desire to afford him opportunity to get acquainted with Nanking officialdom.

JOHNSON

793.003/380

*The Consul General at Shanghai (Cunningham) to the Minister in China (Johnson)*<sup>17</sup>

No. 6498

SHANGHAI, May 16, 1930.

SIR: I have the honor to enclose, for the information of the Legation, a copy of a despatch dated May 6, 1930, from this Consulate General to the Mayor of Shanghai, a copy of the Mayor's reply dated May 12th, and a copy of a further despatch from this office to the Mayor dated May 16th,<sup>18</sup> concerning the seizure by a Chinese police officer of the motor car license of Admiral Charles B. McVay, Jr., Commander-in-Chief of the United States Asiatic Fleet, in which the question of jurisdiction over American citizens in China is involved.

Admiral McVay reported to this office on April 28, 1930, that on April 26th, while attending the races at Kiangwan Race Track a

<sup>15</sup> Telegram in two sections.<sup>16</sup> Not printed.<sup>17</sup> Copy transmitted to the Department without covering despatch; received July 17, 1930.<sup>18</sup> Enclosures not printed.

Chinese police officer approached the chauffeur of his car, which was parked outside the track, and took from him a motor car license and Chinese chauffeur's license, on the grounds that the licenses were not in order. The chauffeur reported the matter to Admiral McVay, who proceeded to the spot, but the police officer refused to return the documents, giving only a receipt.

A member of the staff of this office called upon the Mayor's secretary on April 29th, discussed the matter with him and handed him a despatch giving details of the incident. The secretary stated that an investigation would promptly be made, and on May 3rd a reply was received from the Mayor stating that as the documents found on the car were not correct it was necessary to impose a fine amounting in all to Mex.\$12.00. The Consulate General then addressed a further despatch on May 6th, pointing out that American citizens in China are subject only to the jurisdiction of the appropriate American courts and that no fines can be assessed upon them by any other judicial or administrative authorities. The Mayor replied on May 12th stating that on December 28, 1929, the Chinese Government had issued a mandate<sup>19</sup> which declared that, beginning January 1, 1930, foreigners residing in China should obey the laws and ordinances duly promulgated by the central and local governments in China. The Consulate General replied to the Mayor's communication on May 16th stating that it had received no instructions from the American Government that American citizens were no longer under the jurisdiction of American courts in China, and that pending the receipt of such instructions it must insist upon the observance of the provisions of the treaties between the United States and China.

A member of the staff of this office called on May 13th on the Mayor's secretary, who stated that the Chinese authorities desired to settle the matter amicably and that the documents would be returned at once. The secretary called at the Consulate General on May 14th and returned the license, expressed the Mayor's regret over the incident, and stated that he trusted that the matter might now be considered closed.

The incident apparently arose over some misunderstanding as to the documents carried on the Admiral's car due, not to the negligence of the Admiral, but to the failure of the Bureau of Public Utilities to inform him fully in respect to the municipal requirements at the time of issuing the license.

Although the matter has now been amicably settled the enclosed correspondence is forwarded to the Legation in order that it may be aware of the attitude of the local Chinese authorities in respect to the question of jurisdiction over extraterritorial foreigners.

I have [etc.]

EDWIN S. CUNNINGHAM

<sup>19</sup> See telegram of December 28, 1929, from the Consul at Nanking, *Foreign Relations*, 1929, vol. II, p. 686.

393.1121 Smit, Albert H./31

*The Secretary of State to the Minister in China (Johnson)*

No. 147

WASHINGTON, June 17, 1930.

SIR: The Department refers to the Legation's telegram No. 252, of April 7, 1930, stating that following an accident, in which an automobile driven by an American citizen, Mr. Smit, caused the death of a Chinese, the Chinese local authorities canceled Mr. Smit's license to operate a motor car. The telegram set forth the American Minister's opinion that this action was within the power of the Chinese authorities; that he had made no objection to the action and did not intend to intercede on behalf of Mr. Smit to obtain a new license; that he had informed the Chinese Minister for Foreign Affairs orally that the Legation did not recognize the jurisdiction of the Chinese court over Mr. Smit; and that he had informed Mr. Smit that the latter did not need to pay a fine imposed by the Chinese court. Reference is made also to a memorandum of a conversation held by the Minister with the United States District Attorney on March 11, 1930, in the course of which the Minister stated that it seemed to him that it was quite within the province of the Chinese to issue or to refuse to issue a motor car license without giving cause.

The Department concurs in the belief of the American Minister that in the case under discussion it would have been inadvisable to intercede on behalf of Mr. Smit in order to endeavor to obtain a renewal of his motor car license. Although the phraseology used does not make the point entirely clear, the Department assumes that the license which has been canceled by the Chinese authorities was a license authorizing the use of the motor vehicle in question, and not an operator's permit issued to Mr. Smit authorizing him to drive a motor car.

Assuming this to be the case, the Department questions whether it is entirely "within the province of the Chinese to issue or refuse to issue a motor car license without giving cause". Through the operation of the most-favored-nation clause, American citizens are entitled to the rights accorded to British subjects by Article IX of the British treaty with China of 1858,<sup>20</sup> namely, "to travel for their pleasure or for purposes of trade, to all parts of the interior, under Passports, which will be issued by their Consuls and countersigned by the Local Authorities". Under Article XV of the American treaty with China of 1844,<sup>21</sup> relating to trade, they may insist that "they shall not be subject to any new limitations, nor impeded in their business by monopolies or other injurious restrictions". The Department would not be willing to concede to the Chinese officials unquestioned

<sup>20</sup> *British and Foreign State Papers*, vol. XLVIII, p. 47.

<sup>21</sup> *Miller, Treaties*, vol. 4, p. 559.

authority "without giving cause" to deprive American citizens of the right to utilize motor vehicles owned by them in travel or in the conduct of their business, especially if this right were enjoyed by citizens in China of other nations.

The right to use motor vehicles in China is one which is presumably of great present and potential importance to American citizens. The observations made by the Minister in his conversation with the District Attorney and in the Legation's telegram of April 7, 1930, seem, on their face, to enunciate a very important principle, that is, that the right of American citizens in China to operate motor vehicles may be granted or withheld by the Chinese authorities without question on the part of this Government.

The Department would be interested in a more detailed statement of the Minister's opinion in regard to the general subject that is to be found in the memorandum and telegram to which reference has been made.

I am [etc.]

For the Secretary of State:  
FRANCIS WHITE

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393.1121 Smit, Albert H./32

*The Minister in China (Johnson) to the Secretary of State*

No. 440

PEIPING, September 5, 1930.  
[Received October 8.]

SIR: I have the honor to acknowledge receipt of the Department's instruction No. 147, of June 17, 1930, in reference to a memorandum of a conversation which I had with the United States District Attorney at Shanghai on March 11, 1930, wherein particular reference was made to the statement that I was of the opinion that it was quite within the province of the Chinese to issue or refuse to issue a motor car license without giving cause. The language of the memorandum of conversation in question is hurried and inadequate. I had reference generally to what I conceive to be the right of the Chinese to refuse to issue or to revoke a license for the usual causes, but without necessarily giving reasons when the reasons were as obvious as was the case with Mr. Smit. I quite agree with the Department that under ordinary circumstances, Chinese officials should be expected to grant to Americans the same privileges in regard to the use and operation of motor cars as may be enjoyed by the nationals most favored in such matters. But when an individual American proves himself guilty of abuse of those privileges, or of inability to operate a car with safety to the traffic in which he is travelling, then I feel that the right lies with the Chinese authorities summarily to withdraw the license which they have issued, either permanently or temporarily.

Respectfully yours,

NELSON TRUSLER JOHNSON

DUAL NATIONALITY OF AMERICAN CITIZENS OF CHINESE  
DESCENT<sup>22</sup>

893.012/48

*The Acting Secretary of State to the Chargé in China (Perkins)*

No. 1455

WASHINGTON, January 18, 1930.

SIR: The Department has received your despatch No. 2437 dated November 20, 1929,<sup>23</sup> enclosing a copy of despatch No. 6231 dated October 30, 1929, from the Consul General at Shanghai,<sup>24</sup> in which the suggestion is made that the question of dual nationality of American citizens of Chinese extraction be made the subject of negotiation between the Legation and the Chinese Ministry of Foreign Affairs in order that a mutual agreement may be arrived at in regard to the status of such persons.

In the light of recent developments in relation to extraterritorial rights in China, the Department does not believe that the present offers a suitable occasion for discussing separately with the Chinese Government the question of a possible agreement concerning the jurisdiction to be exercised over persons possessed of dual nationality. The Department is of the opinion that for the present the Consul General should continue to accord such protection to these persons as is possible and proper under the circumstances existing in each particular case. The Department will continue to give consideration to the question of a possible agreement on the subject.

I am [etc.]

For the Acting Secretary of State:

WILBUR J. CARR

393.1121 Wong Bock Yue/3 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, June 23, 1930.

206. 1. Department has received a telegram from Bessie B. Wong as follows:

"My father Whang Bakyue or Huang Bockyue, 22 Kwong Anhutung [*Kwang An Hutung*], Peiping, American citizen of San Francisco, California, left America via Seattle 1916, now managing editor Peiping oversea newspaper, arrested by military authorities Peiping. Please advise Legation there for his release. Am American citizen, San Francisco Secretary of Chinese Presbyterian Church."

2. Wong Bock Yue obtained Departmental passport on application filed at Consulate General at Tientsin July 9, 1925. Investigate facts

<sup>22</sup> Continued from *Foreign Relations*, 1929, vol. II, pp. 513-523.

<sup>23</sup> Not printed.

<sup>24</sup> *Foreign Relations*, 1929, vol. II, p. 520.

and take appropriate measures on behalf of Wong. Report by telegram.

STIMSON

393.1121 Wong Bock Yue/9 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 27, 1930—11 a. m.

[Received 11:15 a. m.<sup>28</sup>]

507. Department's telegram No. 206, June 23.

1. Following memorandum was sent on June 21st to local Diplomatic Bureau of Marshal Yen's Headquarters:

"The American Legation is informed one Wong Bock Yue, an American citizen of Cantonese descent, has been arrested by the Chinese authorities at Peiping stating that it is therefore requested that immediate inquiry be made and if the report is correct that Mr. Wong be handed over at once to the Legation."

This was supplemented by additional information later received from Wong's daughter, that is, correct characters representing his name, his local address and that he had been arrested on June 16 at his home by representatives of the Peiping garrison headquarters. The garrison headquarters has replied through the Diplomatic Bureau alleging that Wong is a native of Kwangtung; that he was formerly a [Senator] and was recently engaged in secret activities in Peiping and Tientsin carrying on subversive activities among soldiers and railway workmen; also that he was attempting to procure certain assassinations. The Diplomatic Bureau has also quoted the garrison headquarters as stating that the Legation must prove Wong's American citizenship.

2. His daughter has exhibited to the Legation his canceled departmental No. 3175-C of June 16, 1929 [1919?]. Consulate General at Tientsin informs the Legation that Departmental passport issued to him on application filed through Consulate July 9, 1925, was never called for and subsequently destroyed upon expiration of validity in December 1927. Since it is believed that the representations already made will probably prevent Wong's summary execution, no further representations are being made pending Department's instructions as to whether Legation should continue to assert Wong's American citizenship and demand custody of his person.

3. His daughter asserts that Wong could, if allowed, disprove charges against him. He is at present being held incommunicado and is of course allowed no facilities to procure evidence for his defense.

[For the Minister:]

PERKINS

<sup>28</sup> Telegram in three sections.



393.1121 Wong Bock Yue/12 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, June 27, 1930—6 p. m.

216. Your 507, June 27, 11 a. m.

1. Three sections your telegram received. The Legation should assert Wong's American citizenship and demand custody of his person. The Legation may of course point out that accusation against Wong may be filed with the Consular Court.

2. In view of the apparent jeopardy to the life of Wong, the Department desires that every effort be made to remove this jeopardy before any investigation shall be made of matter of dual nationality or other questions of jurisdiction. Your demand for the custody of Wong should be in the name of this Government and should state that this Government expects the Peiping authorities to deliver Wong immediately and unharmed to American authorities.

STIMSON

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393.1121 Wong Bock Yue/13 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 28, 1930—4 p. m.

[Received 6:10 p. m.]

514. Department's 216, June 17 [27], noon [6 p. m.] Demand presented at 4 p. m. today.

For the Minister:

PERKINS

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393.1121 Wong Bock Yue/18 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 11, 1930—7 p. m.

[Received July 12—11:09 p. m.<sup>26</sup>]

565. Legation's 514, June 28, 4 p. m.

1. Legation has made several informal inquiries of the Diplomatic Bureau concerning the status of this matter and have been informed that the Garrison Headquarters is unwilling to hand over Wong and had referred the question to lawyer [of] Yen. Chu, Chief of the Diplomatic Bureau, went to Taiyuan to interview Yen over a week ago and Legation was informed that Chu would lay before Yen our side of the question. A reply from the Bureau to Legation's demand

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<sup>26</sup> Telegram in two sections.

of June 28th has now been received, quoting the Garrison Headquarters as follows:

"In connection with this case, the American Legation considers that Wong Bock Yue is an American citizen because the American nationality law emphasizes the principle of birthplace. Since Wong Bock Yue was born in San Francisco he is considered to be an American citizen. However, on the part of China, Wong Bock Yue is considered to be a Chinese citizen because the Chinese nationality law emphasizes the principle of ancestry. While Wong Bock Yue was born in San Francisco within the territory of the United States of America his father was a Chinese resident there and he is of course a Chinese citizen. Furthermore Wong Bock Yue was formerly a member of the second Senate; this presents even clearer evidence of his Chinese nationality. We regret that we are unable to comply with the demand of the American Legation for the transfer of custody."

2. Wong has resided approximately fifteen years in China, mostly in Peiping which is not a treaty port; he has never applied for registration as an American citizen; he applied for an American passport in 1925 but he at no time called at the Consulate in Tientsin to obtain it; he has served as a member of the Chinese Senate to which only Chinese citizens are eligible; held a protracted residence in China and has apparently held himself out as a Chinese citizen and has been recognized as such by the Chinese Government. In view of the foregoing, the Legation, so far as regards the merits of the case, very much questions the advisability of continuing actively to assert Wong's American citizenship. See Department's instruction to Canton December 9, 1927, concerning the case of Ming Jue.<sup>27</sup> The Department's further instructions are requested.

For the Minister:  
PERKINS

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393.1121 Wong Bock Yue/19 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, July 17, 1930—7 p. m.

239. Your 565, July 11, 7 p. m. On the basis of the facts set forth in your paragraph 2 the Department is of the opinion that the Legation would not be warranted in further contesting exercise of jurisdiction by the Chinese authorities over Wong Bock Yue. Nevertheless the Department desires that the Legation in replying to the communication received from the Diplomatic Bureau shall make it clear that this Government desires prompt and full information in regard to the treatment accorded to Wong since entirely apart from ques-

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<sup>27</sup> Instruction not printed; it disapproved Ming Jue's registration application for continued residence in China.

tions relating to exercise of jurisdiction the fact remains that by reason of his birth in the United States Wong acquired American nationality under American law.

STIMSON

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393.1121 Wong Bock Yue/25 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 1, 1930—8 p. m.  
[Received August 1—4:43 p. m.]

651. Department's 239, July 17, 7 p. m. Legation is today informed through the Diplomatic Bureau that the authorities Garrison Headquarters state food, drink, sleeping and living quarters of Garrison Headquarters house of detention are sanitary and that no discrimination exists in case of Wong Bock Yue.

JOHNSON

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393.1121 Wong Bock Yue/28 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 2, 1930—7 p. m.  
[Received October 4—9:30 a. m.]

874. Reference Department's mail instruction No. 199, August 6 [4], 1930.<sup>28</sup>

1. Wong Bock Yue, who was released shortly after the turnover of Peiping, called at the Legation today to thank the Legation for its efforts in his behalf. He has promised to give the Legation a detailed account of his arrest, imprisonment, and release which will be forwarded to the Department by mail when received.<sup>28</sup>

2. He stated that his arrest and imprisonment were for editorials written by him displeasing to the Left Wing; that he was never brought to trial and was never given an opportunity to procure evidence to rebut the charges brought against him. He was, however, well treated.

JOHNSON

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<sup>28</sup> Not printed.

**JURISDICTION FOR QUARANTINE PURPOSES OVER AMERICAN  
MERCHANT VESSELS IN CHINESE PORTS**

893.12/44

*Memorandum by the Minister in China (Johnson) of a Conversation  
With the Director of the Chinese National Quarantine Service  
(Wu Lien-teh)* <sup>29</sup>

SHANGHAI, July 14, 1930.

Dr. Wu called upon me today at the Country Hospital. He referred to his present position as head of the new national quarantine service and said that he very much desired that there should not be any misunderstanding about the new service which he was organizing. He said that there was need for improvement in the present method of handling quarantine matters and that they intended to institute reforms. He said he had just received a very cordial letter from Surgeon-General Cumming<sup>30</sup> of the U. S. Public Health Service. He gave me the letter to read.<sup>31</sup> In it the Surgeon-General congratulated Dr. Wu Lien-teh upon his assumption of this new work and promised to cooperate with him in every way to make his work a success.

I told Dr. Wu I hoped that he would not push matters too fast, that everyone had become accustomed to a certain method of handling quarantine matters in China and I hoped that any changes that were to be made would be made slowly.

NELSON TRUSLER JOHNSON

893.12/29 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary  
of State*

SHANGHAI, July 26, 1930—9 a. m.

[Received July 27—9 a. m.]

Heretofore this port has been protected from importation of contagious diseases from other ports under sanitary regulations which were brought into effect in 1874 by agreement between Superintendent of Customs and treaty power consuls, which have been revised at various times to meet various conditions, the latest revision being in 1925. The expense of maintaining the sanitary regulations [including] port doctor and fumigation plant and floating equipment has been met by contributions from Maritime Customs, the Shanghai Municipal Council and the French Municipal Council. These regu-

<sup>29</sup> Copy transmitted to the Department by the Minister in his despatch No. 396, August 14, 1930; received September 11.

<sup>30</sup> Dr. Hugh S. Cumming.

<sup>31</sup> Not printed.

lations have met emergencies reasonably well. Quarantine has been established against infected ports on a proclamation issued by the Superintendent of Customs with the approval of the Consular Body. The port doctor is a British physician. Recently quarantine regulations 1930 of the Republic of China Ministry of Health have been issued and Dr. Wu Lien-teh has been appointed director of the newly organized Chinese national quarantine service. He transmitted copies of these regulations to the Consuls in Shanghai and stated that the Ministry of Foreign Affairs had notified the Diplomatic Body of the issuance of the regulations. The inspector of the port states: "These regulations shall have effect in the ports of China where the health services are under the control of the Ministry of Health." No previous notice was given to any of the interested parties of the issuance of these regulations. The Director has stated that he intended taking over the entire quarantine service of Shanghai including the fumigation plant, thus replacing the sanitary regulations. This is an evolving move of the Chinese Government. The regulations in themselves are not, generally speaking, very objectionable, though certain clauses are. The enforcement of the regulations however is beyond the capacity of the Chinese authorities . . .

2. The Director General has now stated that cholera exists in the Philippine Islands and there is strong reason to believe that he intends to declare quarantine against the Philippine Islands and to put the quarantine regulations into effect on the arrival of *President Taft* due on July 30th. It is believed that the Director intends to make a test case of this American vessel best [*as to?*] whether the United States will permit the regulations to be enforced in Shanghai against her shipping and eventually accrued foreign shipping.

3. Though the regulations have been transmitted, I state with emphasis that their equitable enforcement is beyond the capacity of the Chinese authorities. . . . I venture to express the view that, so long as present treaties exist, the new regulations cannot be enforced against American vessels nor can American vessels be placed in quarantine, as is required by the Chinese regulations, so long as these treaties exist.

4. Early instructions are solicited regarding validity which should be given to the quarantine regulations. It is suggested that Dr. Cumming be consulted since it is understood he has had knowledge of the regulations as Dr. Wu Lien-teh has a letter from him dated in June 1930 in which cooperation is promised.

5. It would have been more in order had the National Government desired to take over the quarantine work from the Customs if the proposal had been discussed with the treaty powers and an arrangement reached which would be equitable and inspire confidence in the fair enforcement of the regulations agreed to, rather than arbitrarily

to attempt to force new regulations on shipping. I venture respectfully to suggest that the Chinese authorities be notified that the sanitary regulations must continue in effect until they are replaced by other regulations agreed to after orderly conditions.

Repeated to the Legation. Copy to Minister.

CUNNINGHAM

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893.12/29 : Telegram

*The Acting Secretary of State to the Consul General at Shanghai  
(Cunningham)*

WASHINGTON, July 31, 1930—6 p. m.

Your July 26, 9 a. m.

1. The Department desires that in reply to the communication received from the director of the newly organized Chinese national quarantine service you inform him that under the treaties now in force between the United States and China jurisdiction over American merchant vessels visiting Chinese ports is vested in officials of the American Government. With a view to the general welfare, the officers of this Government in China have collaborated with officers appointed by the Chinese Government in measures designed to prevent the introduction into China of diseases from abroad. This collaboration has been carried out under agreements which have been revised as occasion demanded by mutual assent. While the procedure heretofore prevailing would appear to provide a basis for safeguarding the public health at Shanghai from importation of disease, this Government is prepared, in case the Chinese authorities so desire, to discuss the question of revising existing agreements by means of negotiations either between American consular officers and the local authorities or between its diplomatic representative and the higher Chinese authorities.

It may also be pointed out to the director that the only administrative officers of the Chinese Government authorized by the treaties to board American vessels in the performance of official functions are the officers of the Chinese Maritime Customs. If there has been any departure from this rule, it has been made with the assent of such American officials as exercise jurisdiction over American vessels in accordance with treaty stipulations.

You should assure the director of the Chinese quarantine service that this Government desires to continue to cooperate in every practicable manner with the Chinese authorities in the matters of public health and quarantine and will be glad to proceed at once to the consideration of the regulations forwarded by him.

Following for your information and guidance: In addition to the question of American jurisdiction over American vessels visiting Chinese ports, to which, in the Department's opinion, American shipping interests are entitled under the treaties, there are to be found strong practical objections to the present Chinese proposal. At a time when the National Government in the very nature of things is able to enforce its own proposed regulations only "in the ports of China where the health services are under the control of the Ministry of Health", that Government apparently proposes to dispense with international cooperation in the taking of quarantine precautions. This would tend to produce confusion and laxness. Before assenting to an alteration in the established procedure in the matter of quarantine regulations to be applied to American shipping in Chinese ports, the American Government would expect that proposed new arrangements take sufficiently into account existing treaty provisions and that the situation afford reasonable basis for expecting intelligent and uniform application of such quarantine measures throughout China generally.

2. The Legation reported under date July 28, 5 p. m.,<sup>32</sup> that the Senior Minister had not yet received the new quarantine regulations.

3. For your confidential information, Surgeon General Public Health Service states that a serious epidemic of cholera exists in the Philippine Islands.

4. Department would like to be informed how the Chinese proposal is regarded by official representatives of other principal nations concerned.

5. Please repeat to Legation as Dept's 256.

CARR

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893.12/32 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, August 4, 1930—5 p. m.

[Received August 5—7:30 a. m.]

Following telegram has been sent to the Legation:

"August 4, 4 p. m. Legation's August 1, 11 a. m. At a special meeting of the Consular Body, August 1st, the quarantine regulations were considered. It was agreed that the only ground for objection was that of extraterritoriality. It was decided to forward a copy of the regulations to the Senior Minister with inquiry as to what attitude should be assumed by the Consular Body. The British Consul General's attitude, referred to in paragraph 2 of my August 1, 3 p. m., which is that while it is necessary for him to receive author-

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<sup>32</sup> Not printed.

ization of his Government, he is inclined to advise British vessels not to stop at Woosung to take aboard health officials. The Japanese Consul General does not regard the promulgation of quarantine regulations as serious matter but the Chargé d'Affaires has referred the matter to his Government from which he has received no instructions. The French Consul General, not present at the meeting, states that he is but awaiting developments. Repeated to Department."

CUNNINGHAM

893.12/35 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, August 7, 1930—1 p. m.

[Received August 9—9:50 p. m.]

Referring Department's July 31, 6 p. m., a letter in the sense of the Department's instruction was today forwarded to the Director of Quarantine. Dr. Wu Lien-teh, the Director, has now accompanied the League of Nations delegation to Japan as the quarantine authority of China. It is stated that he is emphasizing the service that he has established here in Shanghai. It is understood that he will return to Shanghai about the 14th. In the meantime no quarantine service is being put into effect at this port since the port health officer under the regulations has not [functioned] since the 31st of July.

2. The Consul did not receive a copy of the quarantine regulations nor did the Consular Corps body as a unit take any action until August 1st, when the Consul was authorized to transmit the regulations with the inquiry as to the attitude that was to be assumed by that body. This went forward by post on August 4th.<sup>33</sup>

3. Department's paragraph 4 is covered by my August 4, 2 [5] p. m.

CUNNINGHAM

893.12/36 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 11, 1930—7 p. m.

[Received 7:38 p. m.]

689. Department's 256, July 31, 6 p. m.<sup>34</sup> Legation has received from the Ministry of Foreign Affairs copies of quarantine regulations with request that those concerned be instructed to comply with the regulations. A reply is being drafted along the lines of the Department's telegram under reference. Shanghai reported under date of

<sup>33</sup> Regulations not printed; they were transmitted to the Department by the Consul General at Shanghai in his despatch No. 7043, July 23, 1930; received August 14 (893.12/39).

<sup>34</sup> See last paragraph of telegram of the same date to the Consul General at Shanghai, p. 529.



August 7, 1 p. m., similar reply made to Director of Quarantine. Shanghai informed.

JOHNSON

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893.12/43 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, September 10, 1930—5 p. m.  
[Received September 10—10 a. m.]

Referring my August 7, 1 p. m.

1. Wu Lien-teh called on August 25th and he wished to take up locally the question of quarantine regulations and would so write me. However, under date of September 2nd he wrote stating that ["I have seen both Minister of Foreign Affairs and Minister of Health who will take the matter up with the higher authorities."]

2. I would refer to top of page 5 of my despatch No. 6574 of July 23 to the American Minister<sup>35</sup> in regard to visaing fumigation certificates and request instructions as to whether this office should visa fumigation certificates signed by a national quarantine service officer but not countersigned by the harbor master. In view of Department's telegram of July 31, 6 p. m., it would appear undesirable to visa such certificates, however, I personally made investigations and find that the fumigation, in the opinion of the master of the Dutch *Tjikarang* is as effectively carried out as under the former system. The master of this steamer has requested a fumigation certificate to be visaed, issued as above indicated, but I have refused pending instructions from the Department. The vessel is calling at Manila. The Department's reply will be cabled to Manila upon receipt.

3. American shipping companies have been advised by director of quarantine service of the establishment of the national quarantine service and that it has taken over the late sanitary service. The notice among other things states that "our quarantine officers will in future inspect all vessels needing examination for sick persons, coffins, et cetera, and sign on behalf of the Government. No other medical practitioners except quarantine officers are in future authorized to undertake this work." I am advising American companies to report any delays occasioned by the carrying out of the national quarantine regulations.

4. It is understood that the British are tacitly accepting the new service, expecting to protest should shipping be unnecessarily inconvenienced by putting into effect of the proposed regulations. . . .

Repeated to the Legation.

CUNNINGHAM

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<sup>35</sup> Not printed.

893.12/43 : Telegram

*The Acting Secretary of State to the Consul General at Shanghai (Cunningham)*

WASHINGTON, September 12, 1930—4 p. m.

Your September 10, 1930, 5 p. m. United States Public Health Service permits quarantine authorities at American ports to accept duly authenticated fumigation certificates issued by medical officers of foreign Governments which are parties to International Sanitary Convention 1926<sup>38</sup> which however China has not ratified. Pending settlement of the question of proposed new quarantine regulations you should not authenticate fumigation certificates issued by officers of the Chinese National Quarantine Service but should request United States Public Health Surgeon at Shanghai to issue fumigation certificate under Article 104, quarantine regulations, after satisfying himself regulations complied with. This certificate should carefully avoid assigning any official character to the establishment actually performing the work. You should telegraph Manila opinion of United States Public Health Surgeon at Shanghai as to adequacy of *Tjikarang* fumigation and its compliance with United States Quarantine Regulations.

COTTON

893.12/45 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, September 22, 1930—5 p. m.

[Received September 22—4:06 p. m.]

839. Shanghai's September 10, 6 [5] p. m., last paragraph.

1. With regard to the attitude to be taken toward the new quarantine regulations, Senior Minister in circular No. 69, August 18th, suggested "that it might be advisable not to inform the Government in Nanking of an acceptance of the regulations in question nor to make them binding upon the respective foreign nationals but to let them tacitly be enforced and watch with what results the Chinese authorities handle the matter."

2. British and Japanese have concurred in this suggestion and the French and Italian Legations state that they have no objection. In view of the attitude taken by the powers mentioned I do not consider it would be advisable for us to follow a different policy. The Legation has thus far refrained from replying to the communication from the Ministry of Foreign Affairs enclosing a copy of the new

<sup>38</sup> Signed at Paris, June 21, 1926; *Foreign Relations*, 1926, vol. I, p. 177.

quarantine regulations and will continue to do so, unless otherwise instructed by the Department.

For the Minister:  
PERKINS

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893.12/43 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, September 27, 1930—1 p.m.

336. Your September 22, 5 p. m. In view of your recommendation and Shanghai telegram September 10, 5 p. m., Department authorizes Legation to refrain from accepting quarantine regulations for the present, meanwhile tacitly permitting enforcement as concerns measures dealing with entry into the port and watching results of Chinese administration. Quarantine measures under United States quarantine regulations applied to ships and cargo destined to American ports should be supervised and certified to by United States Public Health Service at Shanghai and Consul should not certify to official character of officers of Chinese National Quarantine Service. Repeat to Shanghai.

COTTON

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893.12/43

*The Secretary of State to the Minister in China (Johnson)*

No. 268

WASHINGTON, September 29, 1930.

SIR: Referring to the telegram addressed to the Department by the Consul General at Shanghai, under date of September 10, 1930, 5 p. m., and repeated to the Legation, in regard to the new quarantine regulations for Shanghai, proposed by the Chinese Government, the Department encloses herewith, for your information, a copy of its telegram of September 12, 4 p. m., to Shanghai.<sup>37</sup>

In his telegram, the Consul General raised a question involving the administration of quarantine in American ports by inquiring whether he should visa fumigation certificates signed by an officer of the Chinese National Quarantine Service but not countersigned by the harbor-master at Shanghai. He cited a specific case, that of the Dutch Steamship *Tjikarang*, which had requested visa of a fumigation certificate. This visa was refused, pending the receipt of instructions from the Department. The vessel was bound for Manila and the Consul General requested instructions so that he could cable Manila, upon their receipt, in order that the quarantine authorities there might be informed before the arrival of the ship, which had evidently left Shanghai.

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<sup>37</sup> *Ante*, p. 533.

The United States Public Health Service ordinarily recognizes fumigation certificates issued by foreign medical officers, provided these certificates have been duly authenticated by an American Consul, but extends to them no greater measure of recognition than to similar certificates issued abroad by officers of the United States Public Health Service. They take this action under the International Sanitary Convention (Paris, 1926), to which China is not a party.

Quarantine officers at American ports, however, are not *required* by their regulations to recognize the fumigation certificates of foreign government medical officers, even when they have been authenticated by American Consuls, or even those of United States Public Health officers. They are *permitted* to do so, but must be satisfied, by their own inspection, in addition to the certificate, that the vessel shows a satisfactory freedom from rat infestations (Consular Regulations, 376).

In the form prescribed for visaing a fumigation certificate issued by a medical officer of a foreign government, the consular officer takes no responsibility in respect of the fumigation itself but he does certify to the signature and official character of the issuing authority, reciting that such authority is duly commissioned and qualified and that full faith and credit are due to his official acts (Consular Regulations, 376).

Pending settlement of the question in regard to the proposed new Chinese Quarantine Regulations, the Department does not deem it advisable for American consular officers to issue such certificates in respect of officers of the new Chinese National Quarantine Service, entirely aside from the question of adequacy of the fumigations.

Our own Quarantine Regulations, and the facilities which we have provided at Shanghai by maintaining there a contract surgeon of the United States Public Health Service, provide adequate and simple means of establishing the fact that a ship has been fumigated at that port. If the fumigation is performed by the Chinese Government hulk or other fumigation establishment owned by the Chinese Government and operated by the Chinese National Quarantine Service, the Chinese authorities could not very well refuse to permit an American official to be present on board an American ship while the fumigation is taking place. To refuse to fumigate foreign ships bound to American ports, if the American authorities are present during the operation, would place the Chinese Quarantine Service in a position of unreasonably refusing to extend the facilities of the port to the vessels of a friendly nation.

The Department awaits with interest the Legation's report on the action of the Ministries of Foreign Affairs and of Health on the

question that has arisen at Shanghai in regard to administration of the quarantine at that port.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

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893.12/47 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, November 11, 1930—5 p. m.

391. Your 968, November 8, noon.<sup>39</sup> Pending receipt by Legation of Foreign Office representations referred to in Shanghai telegram September 10, 5 p. m. to Department and Legation and consequent consideration of acceptance of proposed regulations Chinese quarantine officers may be tacitly permitted to board American ships arriving at Shanghai so long as they attempt no discriminatory arbitrary or unreasonable measures and do not interfere with United States Public Health Surgeon.

STIMSON

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893.12/48 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 14, 1930—1 p. m.  
[Received November 14—9:23 a. m.]

986. Legation's 968, November 8, noon.<sup>39</sup> Following from American Consulate General at Shanghai:

"November 13, 3 p. m. Referring to my November 3, 10 a. m., regarding quarantine, it seems advisable for me to add that I have advised American shipping companies at Shanghai to instruct masters of their vessels to proceed as though no change in control of service had occurred as long as Chinese officials are reasonable and follow general international practice. Shipping companies have been advised further not to protest when their vessels are boarded or otherwise interfered with by Chinese quarantine officers but to keep this office and the Public Health Surgeon fully informed. Steamship companies do not anticipate any serious difficulties in connection with quarantine so long as service continues to be administered under Wu Lien-teh and his associates. Attention is called to the fact that at Canton quarantine has been under Chinese control since 1925 and [19]26."

For the Minister:  
PERKINS

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<sup>39</sup> Not printed.

893.12/49

*The Secretary of State to the Consul General at Shanghai  
(Cunningham)*

WASHINGTON, December 19, 1930.

SIR: The Department has noted the statements, in your despatch No. 6680 to the Legation at Peiping, dated October 29, 1930,<sup>40</sup> in regard to certificates of fumigation and disinfection of ships and cargo bound to the United States and to the Philippine Islands.

With reference to the suggestion made by Dr. R. W. Hart,<sup>41</sup> that the United States Public Health Surgeon at your post be permitted to countersign certificates issued by officers of the Chinese National Quarantine Service in lieu of issuing his own certificate under Article 104 of the American Quarantine Regulations, the Department does not deem it advisable to authorize this practice at present.

The Legation at Peiping has received the proposed quarantine regulations from the Ministry of Foreign Affairs, and the question of their acceptance is being held in abeyance while the tacitly permitted administration of quarantine in respect of incoming ships, passengers and cargo is being watched.

As this Government has not yet recognized the official character of officers of the Chinese National Quarantine Service, so far as American ships are concerned, and has not recognized the right of any Chinese officers other than those of the Chinese Maritime Customs to board American ships, it is considered inadvisable for any officer of the United States Government to accord to them even the implied recognition that would be involved in countersigning certificates issued by them for the use of the quarantine service in American and Philippine ports. For this reason, all certificates issued by the United States Public Health Surgeon at Shanghai should be his own and should carefully avoid assigning any official character to the Chinese establishment which actually performs the work of fumigation or disinfection or to the Chinese representatives signing documents in regard thereto.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

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<sup>40</sup> Not printed.

<sup>41</sup> Senior representative of the United States Public Health Service in the Far East.

APPLICATION OF CHINESE JURISDICTION TO AMERICAN MISSIONARY,  
EDUCATIONAL, AND MEDICAL ENTERPRISES AND PERSONNEL IN  
CHINA

393.1164/99

*The Secretary of State to the Minister in China (MacMurray)*

No. 1402

WASHINGTON, November 15, 1929.

SIR: The Department has given its careful attention to the subject matter of your despatch No. 1887, dated January 24, 1929,<sup>42</sup> with which you transmitted a copy of a communication from an American missionary society in regard to the registration of mission schools<sup>43</sup> and the re-registration of real property held by the mission. You expressed the hope in this despatch that the Department would formulate a definite policy with regard to the attitude to be adopted by the Legation and by consular officers with reference to these two questions.

The re-registration of real property held by missionary organizations will be dealt with in a separate instruction.

In reference to the subject of the registration of mission schools conducted by American citizens or organizations in China, the Legation has been informed in previous instructions of the understanding of the Department that the treaties now in force give to American citizens the right to establish and conduct schools without interference from or control by the Chinese authorities. The Department has invited the Legation's attention to the fact, however, that some American missionary institutions have shown a disposition to adjust themselves to Chinese requirements in such matters, and has suggested that when American consular officers are called upon to exercise their good offices on behalf of American educational institutions, particularly those registered under Chinese regulations, such officers should endeavor so far as may be possible to exert a conciliatory influence in such cases of conflict as may arise. You are referred, in this connection, to the Department's instructions No. 830 of February 2, 1925 (file No. 393.116/329),<sup>42</sup> No. 600 of July 26, 1927 (file No. 393.1164/74)<sup>44</sup> and No. 871 of May 23, 1928 (file No. 393.1164 Foochow College/5).<sup>45</sup>

In formulating a definite policy that shall be adapted to the changing situation in China, it is important to take into account the political and social developments that have taken place in comparatively recent years. When the treaty provisions bearing on the subject of

<sup>42</sup> Not printed.

<sup>43</sup> For previous correspondence on this subject, see *Foreign Relations*, 1928, vol. II, pp. 569 ff.

<sup>44</sup> *Ibid.*, p. 569.

<sup>45</sup> *Ibid.*, p. 570.

schools were formulated, the education of Chinese children and youths was left to private initiative. In the last two or three decades, however, the National and Provincial Governments have established schools supported by public funds and have promulgated regulations designed to meet the educational needs of the Chinese people as determined by their own authorities. It seems to be a tenet of present day Chinese political belief that the control of the education of the people is a function of the State. The Department understands that laws and regulations bearing on the subject of education have been issued in accordance with this principle. In view of the fact that the treaties do not specifically exempt from Government control schools maintained by American citizens for the secular education of Chinese, and in accordance with the practice generally followed by the Department of relying on express provisions of treaties in asserting the rights of American citizens in China, and in accordance, also, with the principle that international agreements involving a surrender of sovereign authority are to be interpreted restrictively, the Department believes that American citizens and organizations in China would not be justified, under present conditions, in contesting the right of the appropriate Chinese authorities to prescribe the method in which such schools shall be conducted.

This view is supported by the circumstance that the educational institutions in question require the cooperation of Chinese as instructors and students. The right of American citizens to conduct schools for the education of Chinese children is analogous to the right of American merchants to employ Chinese agents in the interior. The Legation will recollect that in its instruction of September 7, 1921 <sup>46</sup> (file No. 164.12/413) on this subject, the Department insisted on the right of American firms to establish business relations with "any and all subjects of China without distinction" but added that this position should not be understood "as indicating any intention on the part of the Department to insist upon the right of American citizens to engage Chinese in employment which would place them in violation of Chinese law". Being Chinese citizens, Chinese so employed would be, and are, as such, subject to the jurisdiction of their own authorities and laws.

The information before the Department indicates that several important institutions of higher learning maintained by American organizations in China have come to satisfactory understandings with the Chinese authorities and have been registered in more or less strict conformity with the regulations bearing on the subject. These organizations have shown in the field of education the same spirit of adaptation to changed conditions that has been exhibited by commercial organizations following the recognition of China's customs autonomy

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<sup>46</sup> Not printed.



through the negotiation of the treaty of July 25, 1928.<sup>47</sup> The Department is of the opinion that all American educational institutions in China would be well advised to come to an understanding with the appropriate Chinese authorities in regard to registration.

In expressing these views the Department does not ignore the fact that registration of schools under the existing regulations may necessitate important changes in the way in which they are conducted. In some instances these changes may appear to be tantamount to the abandonment of one or more of the purposes for which a particular institution was established. The injunction against the including of compulsory, or even voluntary, religious courses in the curricula of the schools is a case in point. In this connection, it may be observed that, so far as the treaties are concerned, the right to establish schools and the right to preach Christianity are distinct one from the other.

The Department desires that copies of this instruction be sent to the American consular officers in China for their guidance. They should be advised that, although the Department takes with regard to questions of educational administration the view set forth in this instruction, it desires that the vigilance of its officers in the protection of the unquestionable rights, including property rights, of American citizens and organizations engaged in educational projects in China be in no way relaxed. In some instances that may arise it may be that property owned by American organizations has been leased to Chinese organizations or otherwise placed under the legal control of Chinese citizens. In such cases it will probably be found that the American owners have safeguarded their interests by concluding appropriate contracts, for the violation of which their proper recourse would be to the Chinese courts. In the event of disputes arising, consular officers, if appealed to for assistance, should make careful investigations and do their utmost to see that the American owners are not deprived of their contractual and other legal rights in the premises. The Department has felt no objection to the effectuating of arrangements for registration of American educational institutions through negotiations conducted directly between the American interests concerned and the Chinese authorities. If, however, consular officers are appealed to for assistance in making these arrangements or in connection with difficulties that may arise thereafter, they should exercise their good offices toward effecting equitable settlements.

I am [etc.]

For the Secretary of State:  
NELSON TRUSLER JOHNSON

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<sup>47</sup> Treaty regulating tariff relations between the United States and China, signed at Peiping, *Foreign Relations*, 1928, vol. II, p. 475.

893.1281/22

*The Secretary of State to the Minister in China (Johnson)*

No. 129

WASHINGTON, June 5, 1930.

SIR: The Department has received the Legation's despatch No. 44, dated February 21, 1930, enclosing copies and translations of Tentative Regulations for Practitioners of Medicine and Regulations for the Control of Hospitals which have been transmitted to the Legation by the Chinese Ministry of Foreign Affairs.<sup>48</sup> The Legation requests the Department's instructions regarding the applicability of these regulations to American citizens and institutions.

Treaties in force between the United States and China specifically authorize citizens of the United States to establish hospitals at any of the ports open to foreign commerce (Treaty of 1844, Article XVII<sup>49</sup>). It is the opinion of the Department that, under the extra-territorial provisions of the treaties, hospitals thus established may be conducted by American citizens without obligation on the part of such citizens personally to conform to Chinese laws or regulations. It is the Department's view, moreover, that, since the Chinese Government both by sufferance and by express provision of treaty (Treaty of 1903, Article XIV<sup>50</sup>) in the years subsequent to 1844 permitted American missionary organizations to acquire property in the interior "for missionary purposes", such missionary organizations may assert a right to establish and conduct hospitals as adjuncts to their work wherever it may be prosecuted. So far as concerns therefore the conduct of hospitals in which the members of the staff may all be American citizens, the Department interprets the treaties in force as conferring on the American citizens involved immunity from Chinese regulation. That the Congress would place this interpretation on pertinent treaty provisions may be inferred from the passing of the Act of March 3, 1915, entitled "An Act to Regulate the Practice of Pharmacy in the Consular Districts of the United States in China."<sup>51</sup> The language of this Act warrants the inference that, in the opinion of the Congress, American citizens practicing medicine or conducting hospitals in China are subject in such matters to the jurisdiction of American laws and courts.

However, it may be accepted as a fact that hospitals conducted by American citizens in China enlist the cooperation of Chinese citizens to a very considerable extent either as members of their staffs or as employees. The Department does not assert on behalf of American citizens a right to engage Chinese in employment which would place them in violation of Chinese law. Association with American

<sup>48</sup> None printed.

<sup>49</sup> Miller, *Treaties*, vol. 4, pp. 559, 564.

<sup>50</sup> *Foreign Relations*, 1903, pp. 91, 98.

<sup>51</sup> 38 Stat. 817.

citizens in the conduct of a hospital would not seem to change the status of a Chinese citizen in the matter of his relationship to the law of China.

In these circumstances, and having in view the desirability of promoting amicable relations between American hospitals, which are usually philanthropic in object, and the Chinese authorities, the immediate problem seems to be one of policy. The regulations for the control of hospitals appear to be, in the main, reasonable and, were conditions in China more stable, the Department would be disposed to suggest to organizations conducting hospitals that they endeavor, as an act of voluntary cooperation, to be guided by the regulations. Under existing conditions, however, the Department believes that its officers in China, when appealed to for advice on the subject, should confine themselves to pointing out the personal immunity that may be claimed by American citizens and the practical considerations that arise from the employment of Chinese citizens. The Department would feel no objection to arrangements relating to the operation of hospitals made by American organizations directly with the Chinese authorities, provided no official commitment prejudicial to the legal status of American citizens were to be involved. Inasmuch as the Legation has received information to the effect that the enforcement of the regulations is to be delayed for the time being, it would appear possible for the Legation to refrain for the present from sending a reply to the note from the Chinese Foreign Office, dated December 9, 1929.<sup>53</sup>

While American physicians practicing in China may claim immunity from Chinese control under the general provisions of the treaties establishing their extraterritorial status, there appear to be no treaty stipulations specifically authorizing the general practice of medicine by American physicians and many considerations of policy similar to those discussed in connection with the conduct of hospitals apply in the case of physicians as well.

The Department suggests that copies of this instruction be sent to the American consular officers in China for their guidance.

I am [etc.]

For the Secretary of State:  
FRANCIS WHITE

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893.5122/28

*The Acting Secretary of State to the Minister in China (Johnson)*

No. 222

WASHINGTON, August 20, 1930.

SIR: The Department has received the Legation's despatch No. 274 of June 18, 1930,<sup>53</sup> concerning the Chinese house tax at Soochow, in

<sup>53</sup> Not printed.

which the Legation reported that it had authorized the American Consul General at Shanghai to protest against any effort on the part of the Chinese to collect this tax from American missionaries or churches, if Chinese temples and the residences of Chinese priests were exempted from the tax.

The Department understands that this tax when paid by American citizens residing in Soochow is paid as a voluntary contribution. The Department believes that this circumstance would warrant American citizens and organizations in refusing to make voluntary contributions equal in amount to the stipulated house taxes when Chinese citizens or organizations similarly situated enjoy exemption under the regulations. The Department believes that the American consular authorities, likewise, would be warranted in supporting American citizens who may take this position.

There does not appear to be, however, any express stipulation in treaties between the United States and China upon which the American consular authorities might rely in claiming exemption for American citizens from the payment of taxes of the sort under discussion and apparently the claim of American citizens to exemption must rest upon those general stipulations of the treaties granting to this Government extraterritorial jurisdiction over its citizens in China and upon the most-favored-nation clauses.

The Department would suggest that the American consular authorities in corresponding with the Chinese authorities in this and similar instances make it clear that no penalty may be imposed on American citizens for failure to make these contributions but endeavor, nevertheless, to effect adjustments which shall be equitable and satisfactory to all concerned.

In connection with precedents in other parts of China, the Legation may wish to refer to despatch No. 745 of November 10, 1928, from the American Consul General at Canton to the American Minister,<sup>54</sup> on page four of which despatch there is a passage entitled "Church Property Excused from Taxation".

Very truly yours,

WILLIAM R. CASTLE, JR.

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393.1164/135

*The Secretary of State to the Minister in China (Johnson)*

No. 325

WASHINGTON, December 3, 1930.

SIR: The Department refers to the Legation's despatch No. 284 of June 23, 1930, and the enclosures thereto, as well as to the Legation's despatch No. 464 of September 16, 1930,<sup>55</sup> in regard to the attempt

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<sup>54</sup> Not printed.

<sup>55</sup> None printed.

of the Chinese officials at Wen Kuan T'un, near Mukden, to collect from the Missionary Training Institute of the Seventh Day Adventist Mission, a certain military fodder tax.

It is noted from the second despatch above referred to that the American Consul General at Mukden does not deem it advisable to refer this matter again to the higher authorities at Mukden until it is raised by the Chinese authorities themselves. While the Department concurs in the decision of the Consul General at Mukden, it desires to state, in the event the question again arises, that both the Legation and the Consulate General should protest against the imposition of any tax of a military nature upon American citizens or institutions in China. While there does not appear to be any express stipulation in the treaties between the United States and China which could be cited as authority for exemption from military levies the Department believes that such claim is warranted in view of the most-favored-nation clause and the general extraterritorial provisions of the treaties.

If the question again arises, however, the Consul General at Mukden should be directed to investigate in regard to the use which the Seventh Day Adventist Mission makes of the property concerned. The object of such an investigation would be to determine whether the use to which the property is being put is in conformity with the provisions of the last paragraph of Article XIV of the Sino-American Treaty of 1903. In this connection, the Legation is referred to the Department's instruction of July 24, 1925,<sup>87</sup> on the policy of the American Government in regard to mission property which is not used for strictly missionary or philanthropic purposes.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

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393.1164/131

*The Secretary of State to the Minister in China (Johnson)*

No. 327

WASHINGTON, December 8, 1930.

SIR: The Department refers to the Legation's despatch No. 375 of August 7, 1930, transmitting a copy of a despatch dated April 3, 1930, from the American Consul at Swatow<sup>58</sup> inquiring whether there are, in other portions of the treaties between the United States and China, in addition to Article VII of the additional articles to the treaty of Tientsin of 1858,<sup>59</sup> specific authorizations for the establishment and conduct of schools by American citizens in China.

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<sup>87</sup> Not printed.

<sup>88</sup> Neither printed.

<sup>59</sup> For additional articles (specifically art. VII), see treaty of trade, consuls, and emigration, signed at Washington, July 28, 1868, Malloy, *Treaties, 1776-1909*, vol. 1, pp. 234, 236.

In reply to the Legation's inquiry you are informed that, so far as the Department is aware, the only specific authorization given to American citizens to establish schools in China to be found in the treaties between the United States and China is that contained in Article VII of the treaty in reference.

Referring to the second paragraph of the despatch of April 3, 1930, from the American Consul at Swatow, you are further informed that the questions whether it was intended that the treaty authorization to establish schools should be limited in its application to places open to general foreign residence, i. e., to open ports, and whether it was intended that such schools should be primarily for the education of American children, have apparently never come up for discussion between the American and Chinese Governments. The Department can recollect no instance of an attempt made by the Chinese authorities to regulate or to close a school established by American citizens either within or outside of an open port, when the school was conducted for the education of American children. The question of the right of American citizens under the treaties to establish schools in China which entail the employment of Chinese and impart instruction to Chinese children in secular subjects was discussed in the Department's instruction No. 1402 of November 15, 1929, to which the American Consul at Swatow refers in his despatch.

In considering the status under the treaties of schools established in China by American missionary societies, it must be recognized that the right to establish schools and the right to preach Christianity seem to have been, in the view of the treaty negotiators, distinct one from the other. The Department does not interpret the existing treaties between the United States and China as necessarily expressing the assent of the Chinese Government that the two forms of activity may be combined. On the contrary, while Article XIV of the treaty of 1903 grants to American and Chinese citizens complete immunity in the peaceable teaching and practicing of the principles of Christianity, it also expressly provides that Chinese Christians, "being Chinese subjects", shall conform to the laws of China and that "Missionaries shall not interfere with the exercise by the native authorities of their jurisdiction over Chinese subjects." The Department interprets the reservation to the native authorities of "jurisdiction over Chinese subjects" as including jurisdiction over Chinese citizens in matters relating to the secular education of Chinese persons, whether in the capacity of instructors or other employees, or as students.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

ATTEMPT BY CHINESE AUTHORITIES TO REQUIRE REGISTRATION OF  
FOREIGN CORPORATIONS DESIRING TO BRING SUIT IN CHINESE  
COURTS

893.5034 Registration/1 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary  
of State*

SHANGHAI, June 26, 1930—6 p. m.

[Received June 26—5:40 p. m.]

The following telegram has been sent to the Legation:

"June 26, 5 p. m. The Special District Court of Shanghai on June 16th announced a ruling of the greatest importance in connection with the case of Mitsui Bussan Kaisha, Limited, Japanese, against Ho Heng Sing, principal, and Hung Chang Ting, guarantor, both Chinese. While the facts are not material, briefly it appears that in 1928 Ho who was comprador for Mitsui Bussan Kaisha gave Hung as his guarantor on his bond. Recently the comprador disappeared, defaulting something over a million taels. Suit was brought in the Shanghai Special District Court to recover the amount of shortages. The defense upon trial stated that the legal status of the plaintiff was such as to exclude him from bringing the case in court. He pled that Mitsui Bussan Kaisha was not registered with the Ministry of Commerce as required under Chinese law. Judge Ing stated that since the question had not been decided by the Mixed Court or the Provisional Court and the law had long been promulgated requiring registration under Chinese law, he would allow the matter to be handled in one of two ways: 1st, have Mitsui Bussan Kaisha secure registration with the Chinese Government immediately; 2nd, change the plaintiff to the status of an individual and suggested the manager of the firm. Adjournment was had until the 28th.

I am told that the plaintiff will file a very extensive brief on the 28th and insist that the plaintiff has the right [to] prosecute his case. Further particulars will be transmitted after the hearing. There are a large number of American cases which will be affected should this ruling be maintained.

Repeated to Department and handed to Minister at Shanghai."

CUNNINGHAM

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893.5034 Registration/2 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary  
of State*

SHANGHAI, July 3, 1930—6 p. m.

[Received July 3—3:45 p. m.]

The following has been sent to the Legation:

July 3, 5 p. m. Referring to my June 26, 5 p. m. The court at its hearing on the 28th did not modify its former ruling. The additional statement however was made that Japanese extraterritoriality

had lapsed and therefore extraterritoriality powers are under the impression that no attempt will be made immediately to force, through the courts, firms enjoying extraterritoriality to register with the Ministry of Industry, Commerce and Labor. Confirming this impression, secretary of Dr. Kung informed a member of my staff that all foreign firms must register in the same manner that they are said to do in Japan and other foreign countries.

Two British cases have been heard since the Mitsui Bussan Kaisha ruling and the defense did not raise the point that was raised in the Japanese case. Two American cases were set for hearing yesterday but were settled outside the court, consequently no ruling was possible.

This office has received a large number of inquiries as to whether the demand of the Chinese authorities for American companies to register has the approval of the United States Government. Many have sought advice since all firms are being flooded with printed notices from Chinese attorneys to effect the registration on payment of attorney's fee of 100 taels. The secretary here stated that the Ministry's regulations for the registration of corporations were issued on December 10, 1928.<sup>60</sup> Supplemental regulations are about to be issued by the Ministry of Industry, Commerce and Labor and the press states that they will include:

"1. In establishing branches, registration must first be applied for by the persons stipulated in article 22 of the provisional rules or by the manager of the branch in case the head office of the company is not located in China.

2. In the latter case, if the manager in question is not a citizen of the Republic of China, then bond proving the nationality of the applicant issued by the Consul at the locality concerned shall be required.

3. Application for registration of branches shall first be filed with the local registration office which will forward them to the general registration office for the issue of certificates. When registration is made, the company in question should report the fact to all district registration offices at the localities in which the head office or the branch are located for record.

4. The application form shall have the following particulars:

- (1) The name of the company;
- (2) The locality of the head office;
- (3) Kind of business engaged in;
- (4) Total capital of the head office and the capital of the branches, if separate capital is provided for each;
- (5) Date of registration of the head office and the number of the certificate;
- (6) Locality of the branch in question; and
- (7) The name, age, place and address of the manager.

5. In case the head office is located in a foreign country, then the place of registration and the organ of registration should be stated.

6. The registration fee for each branch will be \$10 plus \$1 stamp duty. In case the head office is not in China, then the registration fee will be charged in accordance with the provisions of article 11 of the provisional rules; while for branches with independent capital, the fee will be charged in proportion to the capital an amount [*sic*].

7. In case of liquidation of the head office, the agency of the branch, the dismissal or appointment of the managers or anything which affects the registration should all be reported to the registration office concerned for record.

8. The district registration offices shall remit the registration fees collected, after deducting 30 percent for administrative expenses, to the general registration office."

Enquirers are being informed pending instructions from the Legation that the question of registration is being referred to the American

<sup>60</sup> Not printed.



Legation for appropriate instructions, that there is no American law which requires American firms to register in China, that it is not believed that because of failure to register with the Ministry of Industry, Commerce and Labor, that firms can be denied the right to bring actions against Chinese in any case. My reason for the last is based largely on article 24 of our treaty of June 16 [18], 1858.<sup>61</sup>

I am firmly convinced that the prime object in requiring registration of all firms is to show an unfriendly attitude towards foreign firms since I am reliably informed that very little if any effort is being made to secure the registration of Chinese firms. Inquiry has failed to reveal a single case where a Chinese plaintiff's case has been dismissed because of the failure to register with the Chinese authorities.

Repeated to the Department.

Copy handed to Minister.

CUNNINGHAM

893.5034 Registration/3 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, July 12, 1930—noon.

[Received July 13—8:35 p. m.]

Following telegram has been sent to the Legation :

"July 12, 11 a. m. Referring my July 3, 5 p. m. The view expressed in first paragraph that firms having extraterritorial rights would not be required as condition precedent to force suit in court to be registered is not correct. On the contrary the President of the Shanghai Special District Court upon his return from Nanking stated definitely in conversation that all firms would be required to register before bringing suit in court. Enquiries are increasing in number and I am continuing to express the view cited in the penultimate paragraph of my July 3rd. The Legation's instructions however are awaited.

Singer Sewing Machine Company on June 28th in a case brought up in Kiangsu [*Kiangning*] District Court was advised by court to settle case out of court since the company was not registered. The judge called for evidence of registration and since the firm is not registered the case was dismissed. This furnishes a concrete case though it arises in the Nanking consular district but was brought to the attention of this office by the company. The company was requested to appeal to the Nanking Consul for appropriate action on his part. Local inquiry has failed to disclose any definite policy on the part of foreign governments having extraterritoriality. All seem to be awaiting instructions.

I desire to stress the importance of early consideration of the question and the enunciation of a policy for the guidance of this office. It is a serious and urgent matter for American concerns.

<sup>61</sup> Malloy, *Treaties*, 1776-1909, vol. I, p. 211.

Copies of provisional regulations for registration of companies and supplemental rules are being forwarded by mail.<sup>62</sup>

Repeated to Department, copy handed to Minister, copy by mail to Nanking."

CUNNINGHAM

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893.5034 Registration/8 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, July 14, 1930—4 p. m.

[Received July 21—3:30 p. m.]

Following telegram has been sent to the Legation:

July 14, 4 p. m. Referring to my July 12, 11 a. m. I have just been informed that during the past three weeks the China Realty Company, a European [*an American*] firm, has brought five or six suits in the Shanghai Special District Court, the petitions being in the name of the manager and signed "China Realty Company by W. A. Adams, manager". Several of these suits were heard before the same judge who sat in the Mitsui case and two have already been decided in favor of the plaintiffs. These suits were brought by the American plaintiff without the knowledge of this Consulate General.

2. In view of the importance of this matter the instructions of the Legation are urgently requested.

Repeated to Department. Copies handed to Minister. Copy mailed to Peiping.

CUNNINGHAM

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893.5034 Registration/4 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 14, 1930—6 p. m.

[Received July 14—10:05 a. m.]

573. Shanghai's July 12, 11 a. m. and previous. Does the Department feel in a position to make a ruling on the basis of Shanghai's telegrams referred to above or does it desire to await receipt of radio summary of regulations mentioned in penultimate paragraph of Shanghai's July 12, 11 a. m.?

For the Minister:

PERKINS

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<sup>62</sup> Not printed.

893.5034 Registration/10 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 16, 1930—noon.  
[Received July 16—7:30 a. m.<sup>63</sup>]

579. Legation's 573, July 14, 6 p. m., and second paragraph of Shanghai's July 12, 11 a. m.

Following from American Consul at Nanking:

"July 14, 9 p. m. On June 20th the Singer Sewing Machine Company filed suit in Kiangning District Court at Nanking against three Chinese debtors. When the case came up for hearing on June 28th the court orally refused to recognize plaintiff's right to sue because plaintiff was a company not registered with the Chinese authorities. The court orally directed plaintiff to withdraw its case. On July 12th, however, plaintiff received written summons from the court to appear on July 18th for a hearing of the case.

A letter to me, dated July 10th, from the Singer Sewing Machine Company states that the matter has been referred to the Department of State by the American Consul General at Shanghai.

I assume that the same issues are involved in this case as in the case of the Mitsui Bussan Kaisha at Shanghai. I understand from private inquiries and the press that the Chinese laws in that case bearing upon the attitude of the court are: Articles 25, 30 and 45 of the Chinese civil code; articles 11 and 13 of the Chinese civil enforcement law; provisional regulations relating to company regulation, promulgated on December 10, 1928, by Ministry of Industry, Commerce and Labor and supplementary articles to the last-named provisional regulations, promulgated on June 28, 1930, [by] the Ministry of Industry, Commerce and Labor.

I have advised plaintiff to go to court on July 18 and report developments at once to me. When I have received this report I shall inform the Legation. Unless I receive contrary instructions I shall probably have a Chinese member of Consulate staff hear the case on July 18 as a private spectator. Minister and Consul General at Shanghai informed by special delivery letter."

For the Minister:  
PERKINS

893.5034 Registration/6 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, July 16, 1930—6 p. m.

237. Your 573, July 14, 6 p. m.

1. No translation of the regulations for registration of corporations issued December 10, 1928, appears to have been supplied to the

<sup>63</sup> Telegram in two sections.

Department.<sup>64</sup> Department, therefore, desires to await receipt by radio of summary of the regulations mentioned in Shanghai's July 12, 11 a. m.,<sup>65</sup> before expressing opinion regarding point under discussion.

2. The Department is particularly interested in the following aspects:

(a) Basis in Chinese law for the ruling of the Shanghai Special District Court that right of a company to bring suit is contingent upon previous registration under Chinese law.

(b) Definite information whether this ruling applies to all litigants or only to foreign companies.

(c) Method of assessing fees for registration with maximum and minimum rates.

(d) Character of information demanded of applicants for registration.

(e) Description of any other obligations or penalties held to arise from registration or failure to register.

STIMSON

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893.5034 Registration/5 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 17, 1930—4 p. m.

[Received 7:20 p. m.]

585. Legation's 573, July 14, 6 p. m.

1. I have been informed by the Japanese Legation that a further hearing of the Mitsui case at Shanghai will take place July 30 and that meanwhile the Japanese Chargé d'Affaires has been instructed to make vigorous representations to the Chinese Government, taking the position [that], irrespective of extraterritorial questions, a corporation recognized under the laws of the country of its origin as a legal person is, according to private international law, entitled to sue as a legal person in a foreign country.

2. Japanese Legation also states that recently there have been similar cases in which the Chinese judge has upheld the position of the Japanese plaintiff. It appears that the judge informed the Japanese Consul that with regard to these cases he would maintain his attitude regardless of the position taken by the Nanking Government; but that with regard to future cases he would require that the consul of the nationality of the foreign plaintiff corporation certify that the

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<sup>64</sup> A copy was transmitted to the Department by the Consul General at Shanghai in his despatch No. 7033, July 15, 1930; received August 14 (893.5034 Registration/20).

<sup>65</sup> See telegram of July 12, 1930, noon, from the Consul General at Shanghai, p. 548.

plaintiff had the status of a legal person under articles of the country of its origin.

For the Minister:  
PERKINS

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893.5034 Registration/7 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 18, 1930—4 p. m.  
[Received July 18—2:35 p. m.]

588. Department's 237, July 16, 6 p. m.; Legation's 585, July 17, 4 p. m. In mail despatch July 9th American Consul at Harbin reports that there are cases of several foreign nationalities pending in Chinese courts there. As yet no case has been dismissed on the ground of nonregistration, the court usually finding some pretext to remand such cases for later hearing. The National City Bank has three cases pending and the American firm of Bashkiroff and Company has one case. The latter firm has informed the Consulate that its claim filed in February last had been suspended until registration should be effected. Thomas confirms statement made to me yesterday by Japanese Legation that Harbin courts would proceed with hearing of cases provided foreign plaintiff corporation presents a letter from its Consul stating that said corporation is duly registered under the laws of its own country.

For the Minister:  
PERKINS

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893.5034 Registration/11 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 19, 1930—3 p. m.  
[Received July 19—12:55 p. m.<sup>66</sup>]

594. Legation's 579, July 12 [16], noon. Following from American Consul at Nanking:

"July 18, 8 p. m. Singer Sewing Machine Company's case was heard today by the Kiangning District Court. The company was represented by its agent named King but was not represented by an attorney.

The following questions and answers were asked and answered (omit preliminary questions) according to the Consulate interpreter who listened to the case:

Court: Is the plan [*company*] registered?

King: I do not know. Probably it is not registered.

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<sup>66</sup> Telegram in two sections.

COURT: According to law, a firm not registered cannot sue. An unregistered firm cannot be considered a juristic person and only a juristic person can sue. It would be better for you to sue in the name of the agent.

KING: Until now the name of the company has been used because all property belongs to the company.

COURT: Recently the law has required firms to be registered, and you doubtless know of the case that occurred in Shanghai.

KING: If the company is not registered, will you dismiss the case?

COURT: Of course the cause [*case*] will be accepted, but at any rate the company must be registered.

(Several formal questions and answers that followed are omitted in this telegram.)

COURT: Do you supervise the sale of machines?

KING: Yes.

COURT: Then you can sue.

After further questions asked by the court of the plaintiff and defendants concerning the merits of the case, the court announced that judgment would be given on July 21.

Minister and Shanghai Consul General informed."

For the Minister :  
PERKINS

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893.5034 Registration/12 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, July 22, 1930—5 p. m.  
[Received July 24—5:33 a. m.<sup>67</sup>]

Department's No. 237 to the Legation, July 16, 6 p. m. Chinese text and translation of "provisional regulations for the registration of companies" and "supplemental rules" mailed to the Department with this office's despatch No. 70 [7033], July 15, 1930 (No. 6565 to the Legation, July 15, 1930).<sup>68</sup> The following is brief summary of "provisional regulations for the registration of companies" promulgated on December 10, 1928, consisting of 5 chapters and 56 articles:

[Paragraphs Nos. 1 to 5 are a brief summary of the provisional regulations.]

6. The "supplementary rules" were reported to Department in this Consulate General's telegram of July 3, 1930, 6 p. m., and to Legation in this office's July 3, 5 p. m.

7. The following are replies to the points raised in paragraph 2 of Department's telegram to Legation 237 of July 16, 6 p. m.: a basis in Chinese law for ruling of Shanghai Special District Court that

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<sup>67</sup> Telegram in two sections.

<sup>68</sup> Received August 14, 1930; not printed.

right of company to bring suit is contingent upon previous registration under Chinese law consists of:

1. Article 5 of Chinese companies law reading: "Unless and until registered with the Control Bureau at place where company's head office is located, no company may be kept in existence."

2. Article 30 of chapter 2 of Chinese civil code, reading: "(a) Juristic person cannot come into existence unless registered with competent authorities." (b) This ruling applies that [to] any litigants whether Chinese or foreign companies. (c) Method of assessing fees has been given in summary of regulations. (d) Character of information demanded of applicants given in summary of regulations. (e) Penalties for failure to register mentioned in chapter 2 of Chinese civil code as follows: Article 33. If director of juristic person disobeys orders or obstructs inspection by competent authorities, he may be punished with fine not exceeding 5000 [500?] yuan. (Article 33 is manifestly inapplicable to American citizens. Article 34. If juristic person violates any of conditions under which authorization has been granted, the grant may be revoked. Article 35. When a director has caused injury to creditors of juristic person through failure to apply to court for declaration of bankruptcy, he shall be responsible for damages.

Repeated to Legation.

CUNNINGHAM

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893.5034 Registration/19 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, August 7, 1930—4 p. m.

265. Your 594, July 19, 3 p. m.

1. Article 24 of the treaty between the United States and China of 1858 provides that "citizens of the United States" may seek redress in law to recover debts due by subjects of China. American courts generally recognize as American citizens for purposes of jurisdiction all corporations organized under American law. In the opinion of the Department organizations incorporated under American Federal or State law are therefore to be regarded as "citizens of the United States" within the meaning of the treaty quoted above and are entitled under the treaty to bring suit in Chinese courts without being subject to the restriction which it is reported the Chinese courts intend to impose, namely, that of registration under Chinese law. Even in the absence of treaty provisions the refusal to permit foreign corporations to sue would appear to be contrary to the usual practice of states.

2. If a Chinese court should request from an American Consul a statement under seal that a particular organization incorporated under American law has the status of a legal person under such law,

the Department believes that the Consul or other officer of the United States concerned would be authorized to issue such a statement, provided that he were first supplied with a duly authenticated certificate of the incorporation of the organization in question.

3. The Legation is authorized to follow its own discretion in regard to the method to be used in bringing the views of this Government to the attention of the Chinese judicial authorities with the object of freeing American corporations from the necessity of obtaining registration under Chinese law as a condition precedent to the bringing of suit in Chinese courts.

4. The Department will give further consideration to the general question of the registration of American business concerns with the Chinese authorities when it has received the translations mentioned in paragraph 1 of the telegram from the American Consul General at Shanghai of July 22, 5 p. m. The Department does not appear to have translation of the "Chinese Civil Enforcement Law" (see Legation's 579, July 16, noon).

CARR

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893.5034 Registration/16 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, August 7, 1930—7 p. m.  
[Received August 8—1:15 p. m.]

679. Legation's 594, July 19, 3 p. m. The following from American Consul, Nanking:

"Judgment in the Singer Sewing Machine Company case was made available to me today. The judgment, dated July 21, gives decision fully in favor of the 'plaintiff, Singer Sewing Machine Company, supervisor, C. T. King'. The question of company registration is not referred to in the decision."

JOHNSON

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893.5034 Registration/26

*The Consul at Harbin (Thomas) to the Minister in China (Johnson)*<sup>69</sup>

No. 2172

HARBIN, August 16, 1930.

SIR: I have the honor to refer to my despatch No. 2168 of July 9, 1930 (File No. 805),<sup>70</sup> which the Legation acknowledged in its telegram of July 18, 12 noon. It was stated in the first paragraph ending on page three of this despatch that the Japanese Consul General had

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<sup>69</sup> Copy transmitted to the Department by the Consul at Harbin in his despatch No. 5113, August 16, 1930; received September 11.

<sup>70</sup> See telegram No. 588, July 18, 1930, from the Minister in China, p. 552.



been informed by the presiding judge of the Superior Court at Harbin that the local courts would not throw out a case if the foreign firm presented to the court a letter from its Consulate that it was duly registered.

The American firm G. A. Bashkiroff and Company has now received an order from the court stating that its suit could not be continued without registration, refusing the firm the right to postpone the suit in order to ascertain the formalities of registration and stating that unless registration were effected within 30 days the case would be dismissed. The company was informed, however, that it could be represented by an individual having a certificate from the consulate that he represented the shareholders of the company.

Mr. F. L. Cole, American citizen, who has a power of attorney said to be identical with that of the local foreign manager of the company except for the power of substitution, has made an affidavit in the Consulate that he is duly authorized to represent the shareholders, and this affidavit will be presented to the court. The Legation will be promptly informed as to whether or not this affidavit is acceptable to the court, and any further instructions from the Legation will be welcomed.

I have [etc.]

EDWARD B. THOMAS

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893.5034 Registration/29

*The Secretary of State to the Minister in China (Johnson)*

No. 266

WASHINGTON, September 26, 1930.

SIR: Referring to paragraph four of the Department's telegram No. 265 of August 7, 4 p. m., stating that, upon the receipt from the Consulate General at Shanghai of translations of the Chinese text of the "Provisional Regulations for the Registration of Companies" and the "Supplemental Rules", further consideration would be given to the general question of the registration of American business concerns with the Chinese authorities, you are informed that the Department has now received and has examined the translations in question.

Without going into the subject of the merit or soundness of the "Provisional Regulations" as such, the Department is of the opinion, after careful consideration, that application of the regulations to American business concerns in China would result in the violation of rights granted to American citizens by existing treaties between the United States and China. The Department gives below some particulars in which the regulations and related enactments seem, from this point of view, objectionable.

It would appear that business concerns registered under the regulations or applying for registration are subject to the possibility of hav-

ing certain of their business affairs examined and reported upon by "inspectors" appointed by the "competent" Chinese "authorities". The regulations appear designed to place the Chinese authorities in possession of practically all facts connected with the formation and conduct of any registered business.

Article 41 of the "Provisional Regulations" states that:

"The registration of any company is cancelled immediately after the completion of its liquidation is recorded".

Articles 218 to 229 of the "Regulations Governing Commercial Associations", which are referred to in the "Provisional Regulations" and presumably are the same as the "Commercial Associations Ordinance of the Chinese Republic", prescribe the procedure decided upon by the Chinese Government for effecting the liquidation of a business concern.

Article 47 of the "Provisional Regulations" provides in part that :

"The old Regulations Governing Commercial Associations shall remain applicable prior to the enactment of the Commercial Law".

An examination of the "Regulations Governing Commercial Associations" reveals that an association may not make preparation to commence business unless it has been registered with the competent authorities at the place of its principal office (Article 5) ; that if an association does not commence business within six months after its registration or if an association acts contrary to law, ordinance, public peace or good customs, the competent authorities may dissolve the association on the application of a procurator (Articles 7 and 8) ; that an association shall be dissolved upon bankruptcy or upon an order for dissolution from the competent authorities (Article 49) ; that any member of the association may make an application to the competent authorities for the dissolution of the association (Article 58) ; that liquidators may be dismissed by the competent authorities on the application of any person interested or of a procurator (Article 64) ; that liquidators apparently may be appointed by a Chinese court (Article 70) ; that the duties and powers of directors shall be as set forth and that the issuance of shares and bonds shall be under definite regulations ; that any member of an association charged with the administration of its business, a promoter, a director, a supervisor, or a liquidator, shall be liable to fines ranging from five to one thousand yuan if he fails to make registration as prescribed, to deliver up without reasonable excuse any document for inspection or examination, and the like.

The Department refers once more to Article 47 of the "Provisional Regulations", which provides that the "Regulations Governing Commercial Associations" shall remain applicable prior to the enactment of the "Commercial Law". By clear implication, firms registering under the regulations now under discussion will find themselves subject,

also, to the "General Principles of the Chinese Civil Code", of which the following excerpts are of especial interest in this connection:

"If a director of a juristic person authorized by grant disobeys any supervising order of, or obstructs an inspection by the competent authorities, he may be punished with a fine not exceeding five hundred yuan." (Article 33).

"If a juristic person violates any of the conditions under which the authorization has been granted, the grant may be revoked by the competent authorities." (Article 34).

"When the assets of a juristic person are insufficient to meet its liabilities, the directors shall forthwith apply to the Court for a declaration of bankruptcy.

"If a director has caused injury to the creditors of the juristic person through failure to apply to the Court for a declaration of bankruptcy, as provided in the preceding paragraph, he shall be responsible for damages." (Article 35).

"Whenever the object or the activities of a juristic person are found to be contrary to law, public order or good morals, the Court may order the dissolution of the juristic person on the application of the competent authorities, the public procurator or any interested person." (Article 36).

"All liquidators may be removed by the Court whenever the Court deems it necessary." (Article 39).

"The liquidation of a juristic person shall be subject to the supervision of the Court." (Article 42).

"A liquidator who disobeys a supervising order of the Court or who obstructs an inspection by the Court may be punished with a fine not exceeding five hundred yuan." (Article 43).

Questions such as those involved in the registration of American business concerns with the Chinese authorities and the placing of such concerns under Chinese jurisdiction are directly involved in the process of working out a method for the abolition of extraterritorial jurisdiction, which is now under discussion between the American and the Chinese Governments.

In view of the fact, therefore, that the "Provisional Regulations" are closely interwoven with basic Chinese law, and that they provide for a kind and degree of Chinese administrative and judicial control over business concerns registering under them which would run counter to extraterritorial status, it would be extremely difficult, if not impossible, for American business concerns in China to effect registration and at the same time to retain their extraterritorial rights and status.

The Department is of the opinion that the Legation and American consular officers in China, if appealed to for advice on the subject, should point out to American business organizations the respects in which registration with the Chinese authorities would appear to involve such organizations in loss of extraterritorial status; and that

the Legation should protest, as contrary to the treaties, any attempt of the Chinese authorities to compel American organizations to register.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

893.5034 Registration/35

*The Secretary of State to the Minister in China (Johnson)*

No. 290

WASHINGTON, October 27, 1930.

SIR: Referring to the Department's instruction No. 266 of September 26, 1930, regarding the registration of American business concerns with the Chinese authorities, there are enclosed herewith, for your information, copies of a letter received from The Texas Company under date October 10, 1930, and of the Department's reply thereto.<sup>71</sup>

The Legation will note that the Department's opposition to the requirement which the Chinese authorities are now attempting to impose that American corporations desiring to bring suit in Chinese courts shall register under Chinese law is based principally on the ground that enforcement of the requirement would be in derogation of the extraterritorial rights of such corporations.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

# PRESS RESTRICTIONS BY CHINESE AUTHORITIES AFFECTING AMERICAN CITIZENS IN CHINA <sup>72</sup>

893.711/49: Telegram

*The President of the United Press (Bickel) to the Acting Secretary of State*

NEW YORK, February 12, 1930.

[Received 5:39 p. m.]

For over three months now the *Shanghai Evening Post*, most important American daily in China, has suffered under a postal ban applied by Shanghai authorities because of *Post* insistence that laws protecting property *Evening Post* be impartially enforced. The imposition of the postal ban bears every indication of being done in effort to embarrass *Post* and indirectly control its editorial utterances. As postal ban against *North China Daily News*, leading British paper which previously fell under displeasure Chinese authorities, only enforced about two months there are evidences discrimination against *Post*. *Shanghai Evening Post*, a United Press client paper, is owned

<sup>71</sup> Not printed.

<sup>72</sup> Continued from *Foreign Relations*, 1929, vol. II, pp. 753-773.

by C. V. Starr, a leading American businessman in Shanghai now in New York, edited by Carl Crow, well-known American newspaper man in China. *Evening Post* been factor utmost importance to United States, deserves any support you or Minister Johnson can give them in their fight to have the *Post* handled nondiscriminatory basis by Chinese post office. Above is for your information and any assistance that you can properly render.

KARL A. BICKEL

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893.711/49 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, February 14, 1930—6 p. m.

58. Reference Shanghai despatch to Legation 6324, December 23,<sup>73</sup> and previous.

Karl Bickel of United Press has telegraphed Department requesting its assistance on behalf of *Shanghai Evening Post*, a client of United Press, in endeavor to remove Chinese postal ban. Please take such action as is proper and expedient, keeping Department informed.

COTTON

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893.711/54 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, February 17, 1930—5 p. m.  
[Received February 17—10:50 a. m.]

135. Department's February 14, 6 p. m.

1. On November 9 the Legation telegraphed the Minister for Foreign Affairs requesting an investigation of the case of the *Shanghai Evening Post* and that action be taken to remove the postal ban upon this American newspaper. On January 9 the Legation addressed a further communication to Dr. Wang, making inquiry concerning the outcome of the investigation. No reply has been received to either of these communications. I have now telegraphed the American Consul General at Shanghai that I will be glad to discuss the matter with Mr. Carl Crow upon the occasion of my forthcoming visit to Shanghai.

2. From a cursory examination of the despatches from Shanghai (copies of which have already been received by the Department), it would appear that the editor of the *Post* has permitted the issue to become confused by what would seem to have been an unnecessary and tactless denunciation of the Chief of the Bureau of Public Safety, thus enabling the Chinese to demand that Crow be prosecuted for

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<sup>73</sup> *Foreign Relations*, 1929, vol. II, p. 773.

libel and to seek to justify the continued ban upon the *Post* for reasons other than those which caused the original action to be taken. I deem it advisable to go more fully into the facts of the case before making further representations to the Minister for Foreign Affairs.

JOHNSON

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893.918/52 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, February 28, 1930—1 p. m.

[Received February 28—8:45 a. m.]

The chief of the Foreign Office section of the municipality informed me unofficially this morning that Civil Governor intends to issue an order expelling G. Edward Lyon from Canton within 24 hours because Lyon had sent a news despatch to the *Hongkong Morning Post* alleging differences among high officials in this province respecting support of Chiang Kai-shek. Lyon is an American lawyer and local newspaper correspondent. The chief of the Foreign Office section said he had called personally in the hope that some way may be found of avoiding an unpleasant incident.

In reply I pointed out that the United States Government still insisted upon its extraterritorial rights, that I considered the article excessively biased, and deplored the arbitrary attitude of the Chinese officials in relation to the freedom of the press. At the same time I said forcibly that if Lyon had written the item in question, I would endeavor to have him express his regrets and also promise to avoid articles likely to offend local government officials in the future. I said this was about as far as I could go, and I thought it should be acceptable to the Governor.

Lyon has promised to follow my suggestions as indicated above and even to go so far as to abandon reporting for Hong Kong papers entirely, since he is primarily a lawyer. He has arranged through this office to confer with the chief of the Foreign Affairs section this afternoon, and I hope the matter will thus be arranged. If Lyon were a public newspaperman representing Chinese publications, I should be inclined to advise him to insist upon his rights regardless of the outcome, but such a course does not seem advantageous in the present instance.

Department and Legation informed.

JENKINS

893.918/53 : Telegram

*The Consul General at Canton (Jenkins) to the Secretary of State*

CANTON, March 1, 1930—noon.  
[Received March 1—6:30 a. m.]

Referring to my telegram of February 28, 1 p. m., concerning Civil Governor's threat to expel American newspaper correspondent, Lyon, from Canton, chief of the Foreign Affairs section of the municipality informs me verbally that local authorities are satisfied with Lyon's expression of regret and promise to endeavor in the future to avoid writing news items likely to offend the local government.

I have searched the files in this Consulate General for information regarding Abend's case,<sup>74</sup> but can find nothing except a brief reference<sup>75</sup> in the Legation's monthly review of July 15, 1929. I assume the Legation replied to note of June 17 from Minister of Foreign Affairs at Nanking,<sup>76</sup> and if so would suggest that the text thereof be furnished this and other consulates for possible future use. In the meantime the fact should not be overlooked that the Cantonese authorities have threatened to go further than Nanking in that Minister of Foreign Affairs asked our Government to expel Abend, whereas the Civil Governor of Kwangtung threatened to take direct action against Lyon.

Department and Legation informed.

JENKINS

893.918/53 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, March 4, 1930—2 p. m.

82. Referring to Canton's telegrams February 28, 1 p. m., and March 1, noon. Department approves as appropriate under the circumstances action taken by the American Consul General in reference to the reported desire of the Chinese authorities to expel Lyon. Department asks that Legation reply to Canton's telegrams and report any further developments.

COTTON

<sup>74</sup> Hallett Abend, *New York Times* representative in China.

<sup>75</sup> This reference not printed.

<sup>76</sup> *Foreign Relations*, 1929, vol. II, p. 763.

893.711/67: Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary of State*

SHANGHAI, March 26, 1930—1 p. m.

[Received March 26—9:40 a. m.]

Referring to this Consulate General's telegram of February 20, 2 p. m.<sup>77</sup> The postal ban on the *Shanghai Evening Post* was removed on March 23. (Repeated to the Legation.)

CUNNINGHAM

893.918/54

*The Secretary of State to the Minister in China (Johnson)*

No. 133

WASHINGTON, June 6, 1930.

SIR: Referring to the Legation's telegram No. 173, of March 4, 1930, 7 p. m.,<sup>77</sup> in regard to action taken by the American Consul General at Canton in connection with the reported intention of the Chinese authorities at Canton to deport G. Edward Lyon, an American correspondent, you are informed that the Department believes that caution should be exercised against giving ground for the belief that the American Government will be able to obtain for American correspondents and publishers of newspapers in China the freedom of action that they might enjoy in similar circumstances in the United States. The right to pursue these two vocations in China does not appear to be specifically granted by treaty and claim to the right apparently must rest upon general provisions of treaties such as the authorization given to American citizens to "pursue any lawful avocation" in localities opened to foreign residence, contained in Article III of the Treaty of 1903 between the United States and China,<sup>78</sup> and upon the stipulations governing extraterritoriality.

Aside from the question whether under the treaties American correspondents and publishers in China may claim the right to pursue their vocations unhampered by the Chinese Government and by Chinese laws and administrative orders applicable to persons who do not possess extraterritorial status, it must be recognized, as a possibility, that the determined opposition of the Chinese authorities might make the successful practice of these professions difficult if not actually impossible. The Department desires, of course, to exercise its good offices to obtain for American correspondents and publishers in China full enjoyment of their legal rights, but correspondents and publishers

<sup>77</sup> Not printed.<sup>78</sup> Signed at Shanghai, October 8, 1903; *Foreign Relations*, 1903, p. 91.



should be informed, when occasion requires, that if they choose to participate in discussions of Chinese political affairs or become involved therein the American Government may not be in position to intervene effectively on their behalf when they find themselves in difficulties with the Chinese.

The Department approves the proposal of the Legation to forward to the Consul General at Canton copies of the correspondence in the Abend case and a statement of the present status of that incident, and suggests that copies of this instruction be sent to all consular offices in China.

I am [etc.]

For the Secretary of State:  
J. P. COTTON

811.91293/185: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 23, 1930—4 p. m.  
[Received June 23—9:35 a. m.]

484. Following from the Minister, Nanking, June 21, 1 p. m.:

"In a conversation with the Minister of Foreign Affairs yesterday, latter referred to return of Hallett Abend to China, quoting from the press interview published in Shanghai in which Abend was reported as stating that many American businessmen seen during his recent visit to the United States favored intervention in China and said that the return of Mr. Abend to China was a direct challenge to the Chinese and that he was constrained to ask me to have him sent out of the country. I told Dr. Wang that I knew of no way whereby either I or the Government at home could legally cause the deportation of Mr. Abend from China as deportation was not a process recognized under our law. Dr. Wang stated that although he knew that it would be impossible to deport Mr. Abend, he nevertheless must ask me to assist them by doing what I could to see that he was sent away. He remarked that were extraterritoriality abolished China would have quickly shown Mr. Abend the door."

For the Minister:  
PERKINS

893.918/57: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 12, 1930—3 p. m.  
[Received 10:50 p. m.<sup>80</sup>]

566. Department's mail instruction 133, June 6th. Following from American Consul at Nanking:

"July 9, 4 p. m. The following is translation of the rules governing newspaper correspondents which the Ministry of Foreign Affairs in-

<sup>80</sup> Telegram in two sections.

forms me will be sent the various Consulates tomorrow for their Legations:

1. During periods of military activity, all Chinese and foreign reporters are subject to inspection. The procedure in the matter is as follows:

2. When Chinese and foreign reporters send telegraphic messages they shall do so at the telegraph or telephone offices. They are not allowed to send such messages by their own registered instruments direct.

3. Before messages are sent the telegraph codes shall be submitted to the inspector for examination. The inspector shall if he considers the despatching of such messages permissible chop the codes which can then be sent.

[4.] In order not to injure the business of telegraph offices, not [*nor*?] to make it inconvenient for press correspondents, the inspectors and telegraph offices shall consult concerning the action to be taken.

5. When necessary, foreign reporters are required to send all messages in Chinese.

6. If (the agents of) foreign-language newspapers are sending reactionary messages by taking advantages of the facilities of foreign Legations and Consulates, the Central Government shall be requested to ask the Ministry of Foreign Affairs to address notes to the appropriate Ministers or Consuls to stop such activities."

For the Minister:  
PERKINS

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811.91293/187 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, July 16, 1930—5 p. m.  
[Received July 16—7:30 a. m.]

581. Legation's 484, June 23, 4 p. m. Marshal Yen <sup>81</sup> has issued an order restoring Hallett Abend's press privileges. Abend intends to come to Peiping within a few weeks.<sup>82</sup>

For the Minister:  
PERKINS

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<sup>81</sup> Yen Hsi-shan, of Shansi, leader of the rebellion against the Chinese Government at Nanking.

<sup>82</sup> The Minister in China on October 27, 1930, reported, in telegram No. 936, from Peiping, that Hallett Abend had informed him of the satisfactory adjustment of his status vis-à-vis the Nanking Government—arranged apparently by the Chinese Minister of Finance, T. V. Soong (893.00/11271). Press privileges were not fully restored, however, until April 28, 1931 (811.91293/195).

811.91293/192: Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, September 23, 1930—4 p. m.

330. Your 832, September 20, 3 p. m.<sup>83</sup>

1. Department has delivered this message as requested, with injunction that contents are to be used as message sent by Peiping correspondents.

2. Department suggests that the Legation refrain from accepting press messages for transmission where the sole object is to evade censorship of telegrams. In accepting unofficial messages for transmission, the Legation should be guided by and may refer to the general principles enunciated in paragraph 1 of Resolution Number 8 of the Washington Conference.<sup>84</sup>

COTTON

893.918/59: Telegram

*The Minister in China (Johnson) to the Secretary of State*PEIPING, December 1, 1930—5 p. m.  
[Received December 1—9:10 a. m.]

1020. Following from Reuter, Nanking, November 30th:

"The Legislative Yuan has also adopted new press laws comprising 44 articles in which it is laid down amongst other things that newspapers and other periodicals shall not be allowed to publish articles, et cetera, attacking the Kuomintang or the San Min principles or anything prejudicial to the interests of the National Government or the Chinese people nor anything endangering the public safety or prejudicial to good morals.

The Ministry of the Interior may order the seizure by the customs of any foreign newspaper or other periodical violating the above regulations so [*which?*] the new laws lay down.

Newspapers publishing incorrect news are liable to a fine not exceeding \$200, while papers and other periodicals which are not registered are also liable to a fine."

For the Minister:

PERKINS

<sup>83</sup> Not printed; it reported "complete censorship" at Peiping pending evacuation of the rebel forces under Marshal Yen Hsi-shan; for transmission, to American news agencies.

<sup>84</sup> See *Foreign Relations*, 1922, vol. I, p. 293.

PROTECTION OF TITLE DEEDS TO REAL PROPERTY OF AMERICANS  
IN CHINA

893.52/216 : Telegram

*The Minister in China (MacMurray) to the Secretary of State*

PEIPING, October 15, 1929—1 p. m.

[Received 2:20 p. m.]

885. 1. My despatches June 21st and July 5th<sup>85</sup> in regard to re-examination of title deeds by the Chinese authorities. I have received a further despatch from the American Consul General at Hankow enclosing a copy of a communication from the Commissioner of Foreign Affairs concerning the general question of re-examination of title deeds and making special reference to re-examination of deeds held as security by foreign banks. It is requested that title deeds held by such banks be presented within a stipulated period, failure to do so involving penalties.

2. This demand appears to present a question of a somewhat different nature from that referred to the Department in the despatches mentioned above. It directly affects the National City Bank at Hankow whose compradore has deposited with the bank certain deeds as a guarantee. The Legation is withholding instructions to the Consul General at Hankow pending receipt of Department's instructions with regard to the whole matter of the re-examination of title deeds.

MACMURRAY

893.52/216 : Telegram

*The Secretary of State to the Minister in China (MacMurray)*

WASHINGTON, November 6, 1929—1 p. m.

363. Your 885, October 15, 1 p. m.

1. The Department has made a careful study of your despatches of June 21 and July 5<sup>85</sup> and other material bearing on re-examination by the Chinese authorities of title deeds held by American citizens. As the best means of epitomizing the conclusions reached there is given below the substance of observations which the Department proposes that you incorporate in a note to the Chinese Foreign Office. You are authorized to discuss the matter with your interested colleagues with a view to simultaneous or joint action if you so desire.

2. Substance of note to the Chinese Ministry of Foreign Affairs:

"Under instructions from my Government I have the honor to inform Your Excellency that American consular officials and American citizens in various parts of China have been approached by the local

<sup>85</sup> Neither printed.

authorities with the demand that title deeds to real property held by American citizens be submitted to the local authorities for re-examination. These proposals have been reported to my Government, which now instructs me to make to Your Excellency certain observations regarding this subject.

The right enjoyed by American citizens to purchase or lease in perpetuity land and buildings in China is based upon treaties between the Chinese Government and the American Government. The methods in which American citizens have obtained deeds to property, however, and the character of the deeds themselves have differed in different localities. These differences have arisen from local customs, local laws and regulations and, in some cases, from special arrangements between the Chinese and certain foreign governments. It would appear from the information received by my Government that it is the intention of the National Government to bring about uniformity in the form of title deeds. I am instructed to inform Your Excellency that, if such is in fact an objective of the Chinese Government, my Government desires to suggest to the Chinese Government recognition of certain principles which, in its opinion, should be applied in order that the treatment accorded to American citizens holding title deeds to property in China may be fair and just.

My Government suggests, for example, that it should be mutually understood that an evidence of title otherwise valid is not to be held to be invalid through failure to present it for re-examination. The holder of a deed issued by an authority competent at the time of issuing shall not be required to pay any additional tax in obtaining a new deed. No deed shall be rendered invalid by virtue of any subsequent change in the official procedure through which it was obtained. The holder of a white deed shall receive a stamped deed for the same property upon payment of one tax based upon the value of the property at the time the white deed of transfer in question was negotiated. An American citizen holding a deed to real property purchased from another foreigner, when the seller's ownership was recorded in his own consulate and when the white deed was recorded in the American consulate, shall receive a new deed from the Chinese authorities without payment of a tax. No re-examination of deeds nor payment of taxes or fees shall be required by the local Chinese authorities except in conformity with laws and regulations issued by the National Government. When deeds held by American citizens have been or shall be issued by the authorities of any foreign concession in China their validity shall be determined by the arrangements between the Chinese authorities and the authorities of the foreign nationality concerned in force at the time of issuing of the deed. These principles shall be applied in the case of deeds held as security by American citizens, companies and banks on the date borne by this note.

I am instructed to state that my Government would welcome an indication from Your Excellency that the views of the National Government are in accord with the principles just enunciated."

3. Unless you have observations to offer regarding the substance of the proposed note you may send it, using such phraseology as you prefer. When the note has been sent you should inform American consular officers that the subjects mentioned are being discussed by

the two governments and that they may request of the Chinese authorities a delay in proceedings until the discussions shall have terminated.

STIMSON

893.52/232 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 24, 1930—5 p. m.  
[Received January 24—11:15 a. m.]

76. Department's 363, November 6, 1 p. m. Minister for Foreign Affairs in note of January 10th has replied as follows:

"It is unquestionably a general principle that matters concerning real property should be uniformly handled in accordance with the laws and ordinances of the place where such real property is located. Since no Chinese laws and ordinances regarding land registration and the recording of deeds conflict with the treaties now in effect, foreigners of course uniformly obey such laws and ordinances. Furthermore, the procedure provided by the laws and ordinances is of course equitable, suitable and without partiality.

After having given careful consideration to the various suggestions advanced in your formal note under acknowledgment I am of the opinion that these would complicate the existing system even further and would produce no benefit whatsoever".

For the Chargé d'Affaires ad interim:

HEWES

893.52/232 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, February 8, 1930—2 p. m.

50. Your 76, January 24, 5 p. m.

1. In reply to note from Ministry of Foreign Affairs you should state that the American Government attaches importance to the principles set forth in paragraph 2 of Department's 363 of November 6, 1929, 1 p. m., and believes that the application of these principles is essential to ensure fair and just treatment to American citizens holding title deeds to property in China. You should state, further, that the American Government accordingly expressly reserves the right to make representations should a case arise in which the rights of American holders of real property are prejudiced through any action that the Chinese authorities may take in disregard of the principles mentioned.

2. The observations set forth in Department's 363, November 6, 1 p. m., Paragraph 2, and in Paragraph 1 above, may be taken by the Legation and consular officers as generally expressive of the

Department's views in regard to the rights of American holders of deeds to real property in China.

COTTON

893.52/238

*The American Minister in China (Johnson) to the Senior Minister in China (De Kauffmann)*<sup>87</sup>

PEIPING, April 19, 1930.

SIR AND DEAR COLLEAGUE: I have the honor to refer to Dean Circular No. 33 (Individual) of April 10, 1930, transmitting a letter dated March 26, 1930, with three enclosures from the Senior Consul at Shanghai<sup>88</sup> on the subject of the change which is contemplated by the Chinese authorities in the procedure of issuing title deeds. I note that the Senior Minister stated that, unless he heard to the contrary within four days, he would take it that the views of the Consular Body which were embodied in the enclosed draft copy of a reply from the Senior Consul to the Director of the Land Bureau met with the approval of his colleagues, and would so inform the Senior Consul at Shanghai.

Due to an inadvertence in this Legation, the circular in question got mislaid and did not come to my attention until to-day. For this reason I had not had an opportunity to comment before this time upon the drafted copy of the reply of the Senior Consul. Although it is my understanding that a reply has already gone forward to the Senior Consul indicating the approval of the Diplomatic Body of this draft, I feel that I must not withhold from you certain views which I entertain on several of the points covered by the draft in question. I shall take up these points in the order in which they are numbered in the draft submitted by the Senior Consul:

It is my opinion that Paragraph 2 referring to "designation of area in which land held by foreigners is situated" should be omitted from the draft. I see no good purpose to be served by asking that the terms "International Settlement" or "French Concession" be inserted in the blank space describing the section of the Special Municipality of Shanghai wherein the land may be located. The Senior Consul urges this "in order that the special and distinct status of these areas may not be prejudiced". It seems to me that no surer way of raising the question of the status of these areas could be found than by singling them out in this way among the various areas within the limits of the Special Municipality at Shanghai where foreigners may lease land.

<sup>87</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 163, April 19, 1930; received May 22.

<sup>88</sup> None printed.

It seems to me that the argument that if this change is allowed to go unchallenged "the Chinese authorities may say that the foreign authorities have admitted that the International Settlement and French Concession are an integral part of the Special Municipality of Shanghai" is not sufficient to justify the bringing up of this issue in a communication of this kind which is intended to cover a procedure for the issuance of title deeds. The old title deeds specified that the land was situated within the limits of the port of Shanghai, and apparently no one ever seemed to consider this to be an admission on the part of any one of the non-existence of either the International Settlement or the French Concession.

With reference to point 3 concerning the issuance of new deeds after transfer, I have read as carefully as I can those parts of the Shanghai Land Regulations relating to the registration of title deeds, and I find it difficult to accept either Regulations 4 or 5 as a conclusive argument against the issuance of a new Chinese title deed every time a transfer of land is accomplished. The practice at Shanghai has been to recognize the necessity and the propriety of the issuance of a new title deed every time a transfer is made from a foreigner to a Chinese, or from a foreigner of one nationality to a foreigner of another nationality, in spite of Regulations 4 or 5. It therefore seems to me that there is very little ground for arguing against the issuance of a new title deed when title passes from one foreigner to another of the same nationality. My information is that it has been the practice of the British and American Consulates, in Shanghai at least, to notify to the Chinese officers transfers between foreigners of British or American nationality. After all, the prime source of good title to land in China outside of foreign leaseholds and concessions is the Chinese Land Office, and it seems to me that it is to the interest of every foreigner who desires to acquire title to land under the jurisdiction of China to obtain such title directly from the Chinese. Whatever practice other than this may have been permitted to exist through the sufferance of the Chinese authorities in the past, it seems to me that once the Chinese authorities have questioned the legality of such practice, it behooves the foreign possessor of title to conform to the new requirements.

I regret exceedingly the inadvertence which has delayed these comments of mine reaching you, but feel that I must communicate them to you at any cost.

I avail myself [etc.]

NELSON TRUSLER JOHNSON



893.52/243

*Memorandum by the Minister in China (Johnson) of a Conversation With the American Consul General and Senior Consul at Shanghai (Cunningham)* <sup>89</sup>

[SHANGHAI,] April 28, 1930.

In the course of a discussion today of the attitude of the Consular Body at Shanghai toward the Chinese Land Office, Mr. Cunningham referred to the fact that the Consular Body had raised with the Chinese the question of transfer fees on titles transferred between foreigners of the same nationality.

I told Mr. Cunningham that I disagreed with the point of view of the Consular Body as I thought that there was no difference between the transfer of a piece of property between persons of the same nationality and such a transfer between persons of a different nationality, so far as the responsibility of the Chinese for issuing a good title was concerned.

Mr. Cunningham pointed to Regulations 5 and 6 of the Land Regulations, but I contended that these Regulations did not preclude the issuance of a new title deed. Mr. Cunningham showed to me the reply of the Chinese Land Office to the letter of the Consular Body, in which the Land Office took the view that it must require the issuance of new deeds where land passed from one foreigner to another of the same nationality.

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893.52/225

*The Secretary of State to the Minister in China (Johnson)*

No. 165

WASHINGTON, July 3, 1930.

SIR: The Department refers to the Legation's despatch No. 2409 dated November 1, 1929, enclosing a copy of despatch No. 345 dated October 23, 1929, from the American Consul at Tsingtao <sup>90</sup> in which the Legation's instructions were requested regarding the attitude to be adopted by the Consulate toward certain restrictions placed by the Chinese authorities upon the transfer of real property held by foreigners in Tsingtao. The Legation requested the Department's instructions in the premises. The Department refers, also, to despatch No. 351 dated November 6, 1929, from the American Consul at Tsingtao addressed to the Legation on the same subject.<sup>91</sup>

The right of American citizens to acquire and hold property in China is based, in general, on the provisions of the treaties entered

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<sup>89</sup> Copy transmitted to the Department without covering despatch; received June 19, 1930.

<sup>90</sup> Neither printed.

<sup>91</sup> Not printed.

into between China and the United States. Among the pertinent treaty provisions is one found in Article XII of the Treaty of 1858,<sup>22</sup> which reads, in part, as follows:

"Citizens of the United States, residing or sojourning at any of the ports open to foreign commerce, shall be permitted to rent houses and places of business, or hire sites on which they can themselves build houses or hospitals, churches and cemeteries."

Article III of the Treaty of 1903<sup>23</sup> provides that property within certain areas may be leased in perpetuity.

"Citizens of the United States may frequent, reside and carry on trade, industries and manufactures, or pursue any lawful avocation, in all the ports or localities of China which are now open or may hereafter be opened to foreign residence and trade; and, within the suitable localities at those places which have been or may be set apart for the use and occupation of foreigners, they may rent or purchase houses, places of business and other buildings, and rent or lease in perpetuity land and build thereon."

With reference to the tenure of land by foreigners at Tsingtao, it is to be noted that in the Treaty for the Settlement of Outstanding Questions Relative to Shantung, concluded between China and Japan on February 4, 1922,<sup>24</sup> the Chinese Government made the following declarations:

"Art. XXIII. . . . The Government of the Chinese Republic, on its part, declares that the entire area of the former German leased territory of Kiaochow will be opened to foreign trade, and that foreign nationals will be permitted freely to reside and to carry on commerce, industry and other lawful pursuits within such area.

"Art. XXIV. The Government of the Chinese Republic further declares that vested rights lawfully and equitably acquired by foreign nationals in the former German leased territory of Kiaochow, whether under the German régime or during the period of the Japanese administration, will be respected."

In connection with the application to leases of land at Tsingtao of Article III of the Sino-American Treaty of 1903 providing for leases in perpetuity, the Department understands that the Chinese authorities contend that Tsingtao has the status of a port opened by China itself and that the treaty stipulations regarding the right to lease in perpetuity do not necessarily apply there. These two contentions, it is understood, are not admitted by the Japanese authorities. With reference to the contention of the Chinese authorities that the right of foreigners to lease land in perpetuity does not apply to land at self-opened ports, you are referred to the Department's instruction to the

<sup>22</sup> Malloy, *Treaties*, vol. 1, 1776-1909, p. 211.

<sup>23</sup> *Foreign Relations*, 1903, p. 91.

<sup>24</sup> *Ibid.*, 1922, vol. 1, p. 948.

Legation, No. 365 of March 31, 1923,<sup>95</sup> in which the Department expressed the view that the language used in Article III of the Treaty of 1903 clearly includes all ports opened to foreign residence and trade irrespective of whether such ports were opened to foreign commerce voluntarily or by treaty, and that this Government does not admit that China may by local regulations abridge or restrict rights guaranteed to American citizens by treaty stipulations.

However, in view of the peculiar circumstances at Tsingtao, the Department is not disposed to assert on behalf of American citizens greater rights in the matter of land tenure at Tsingtao than are enjoyed by Japanese subjects or other foreign nationals. The Department desires that the Legation and the American Consulate at Tsingtao watch the situation carefully, in order that American citizens shall not be subjected to discriminatory treatment in this regard.

A copy of this instruction is enclosed for transmission to the American Consul at Tsingtao.

I am [etc.]

For the Secretary of State:  
FRANCIS WHITE

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893.52/252

*The Minister in China (Johnson) to the Secretary of State*

No. 682

PEIPING, December 17, 1930.  
[Received January 15, 1931.]

SIR: I have the honor to refer to the Legation's despatch No. 163 of April 19, 1930,<sup>96</sup> on the subject of certain changes contemplated in the cadastral system at Shanghai, with particular reference to the procedure governing the issuance of title deeds. There are now enclosed copies of despatches Nos. 6693, 6699, and 6717, of November 9, November 24, and December 8, 1930, from the American Consul General at Shanghai,<sup>97</sup> reporting the negotiations between the Consular Body at Shanghai and the Director of the Chinese Land Bureau, and the final understanding reached with the Chinese authorities regarding this matter.

The British Consul General at Shanghai has been authorized to begin the use of the new deed forms as from January 1st and otherwise to acquiesce in the new regulations.

Inasmuch as the understanding reached particularly with regard to the issuance of title deeds appears to be reasonable and as satisfactory as might be expected, the Legation on December 15, 1930, authorized the Consul General at Shanghai to begin the use of the new deed

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<sup>95</sup> Not printed.

<sup>96</sup> Despatch not printed; see footnote 87, p. 570.

<sup>97</sup> None printed.

forms as from January 1st and to otherwise acquiesce in the new regulations, without, however, formally recognizing the Chinese proposals regarding the new cadastral system.

Respectfully yours,

For the Minister:  
MAHLON F. PERKINS  
*Counselor of Legation*

RESERVATION OF AMERICAN RIGHTS WITH RESPECT TO CHINESE  
REGULATIONS AFFECTING FOREIGN MISSIONARY PROPERTY <sup>88</sup>

393.1163 Property/36

*The Acting Secretary of State to the Minister in China (Johnson)*

No. 28

WASHINGTON, March 7, 1930.

SIR: The Department has received the Legation's despatch No. 2544 of January 21, 1930,<sup>89</sup> reporting that an instruction has been issued by the Chinese Government ruling that foreign missionary societies are no longer to have included in leases of land the term "leased in perpetuity".

Until the stipulation found in Article XIV of the American-Chinese Treaty of 1903,<sup>1</sup> that American missionary societies shall be permitted to lease land in perpetuity shall have been modified by agreement, the Legation should use all appropriate means to obtain for American organizations the enjoyment of the right as granted in the treaty. Should the Legation consider it advisable, as suggested in the despatch under acknowledgment, to defer a protest until some denial of the right of perpetual lease in a particular case is encountered, the Department would feel no objection to that course.

I am [etc.]

For the Acting Secretary of State:  
FRANCIS WHITE

393.1163 Property/44

*The American Minister in China (Johnson) to the Chinese Minister  
for Foreign Affairs (C. T. Wang) <sup>2</sup>*

No. 159

PEIPING, September 22, 1930.

YOUR EXCELLENCY: I have the honor to inform Your Excellency that the American Consul at Nanking reports that early in 1928 the Christian Reformed Church Mission, an American missionary organization, leased certain land at Jukao, Kiangsu, which the Magistrate is refusing to register on the grounds that he has received instructions

<sup>88</sup> For previous correspondence, see *Foreign Relations*, 1928, vol. II, pp. 576 ff.

<sup>89</sup> Not printed.

<sup>1</sup> *Foreign Relations*, 1903, p. 91.

<sup>2</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 478, September 23, 1930; received October 22.

from the National Government abolishing the system of perpetual leases provided for in existing treaties. The American Consul thereupon referred this matter to the Chairman of the Kiangsu Provincial Government, and in a communication dated May 31, 1930, a copy of which is enclosed,<sup>3</sup> was informed that foreign missions may, under the provisions of the treaty, lease land in the interior in the name of their respective missions. Inasmuch as the word "perpetual" was omitted by the Chairman in his communication, the American Consul called his attention to the provisions of Paragraph 2, Article XIV of the American-Chinese Treaty of 1903, which clearly stipulate that American missionary societies may lease land in perpetuity in the interior of China, and to the fact that these provisions are still in effect. However, the Chairman of the Provincial Government has thus far refused to instruct the Jukao Magistrate to register the transfer in accordance with treaty provisions.

So far as the Legation is aware, the only regulations issued by the Chinese Government regarding the lease of land and buildings by foreign missionary societies are those to be found in the Provisional Regulations Governing the Lease of Land and Buildings in the Interior by Foreign Missionary Societies, in connection with which Your Excellency stated, in a communication dated October 30, 1928,<sup>4</sup> that they "in no way contravene the provisions of any valid treaty".

In any event, as Your Excellency is aware, the position of my Government has been and continues to be that until such time as the stipulations found in Article XIV of the American-Chinese Treaty of 1903 may be modified by agreement, American missionary societies are clearly entitled to lease land in perpetuity. I therefore have the honor to request Your Excellency to issue immediate instructions to the appropriate authorities of Kiangsu to authenticate and register these perpetual leases in conformity with existing treaties.

I avail myself [etc.]

For the Minister:  
MAHLON F. PERKINS  
Counselor of Legation

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393.1163 Property/43

*The American Minister in China (Johnson) to the Chinese Minister for Foreign Affairs (C. T. Wang)* <sup>5</sup>

No. 160

PEIPING, September 22, 1930.

YOUR EXCELLENCY: I have the honor to inform Your Excellency that I am in receipt of a report from the American Consul General

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<sup>3</sup> Not printed.

<sup>4</sup> *Foreign Relations*, 1928, vol II, p. 579.

<sup>5</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 487, September 23, 1930; received October 22.

at Hankow regarding the position assumed by the Bureau of Civil Affairs of the Honan Provincial Government with respect to the issuance of deeds in perpetuity covering certain property leased and paid for by the Lutheran Board of Missions at Kweiteh, Honan. A copy of the Bureau of Civil Affairs' communication of August 26, 1930, is enclosed for the information of Your Excellency.\*

It will be noted the Bureau states that, inasmuch as the term "lease in perpetuity" was deleted by the Legislative Yuan from Article I of the Annex to the Provisional Regulations Governing the Lease of Land and Buildings in the Interior by Foreign Missionary Societies, it does not know whether foreign missionary organizations enjoy the right of leasing in perpetuity land and houses in the interior, and that it is not in a position to render a decision in the premises.

Your Excellency will recall that a similar attempt to deny American missionary societies the rights accruing to them under the provisions of existing treaties was brought to your attention in the Legation's note No. 159 of September 22nd. As pointed out in that communication, the rights enjoyed by American missionary organizations, with respect to the perpetual lease of land and buildings in the interior in accordance with the provisions of Article XIV of the American-Chinese Treaty of 1903, are still operative.

Accordingly, I have the honor to request that Your Excellency be good enough to instruct the appropriate authorities of Honan to issue the necessary deeds conveying this property to the Lutheran Board of Missions in perpetuity.

I avail myself [etc.]

For the Minister:  
MAHLON F. PERKINS  
*Counselor of Legation*

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393.1163 Property/45

*The American Minister in China (Johnson) to the Chinese Minister for Foreign Affairs (C. T. Wang) †*

No. 189

PEIPING, November 12, 1930.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's formal note of October 27, 1930,\* concerning the leasing of certain land at Jukao, Kiangsu, by the Christian Reformed Church Mission, an American missionary organization. It is noted, according to a report submitted by the Jukao District Government through the Kiangsu Provincial Government, that the Mission is said

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\* Not printed.

† Copy transmitted to the Department by the Minister in China in his despatch No. 590, November 12, 1930; received December 17.

to have "itself wished to lease and use the land in question, and that accordingly the Provincial Government had taken action on the basis of this report".

As Your Excellency is aware the point at issue is that the Mission desires to lease this land in perpetuity as provided for in existing treaties, and the Legation in its previous note requested Your Excellency to issue the necessary instructions to effect the authentication and transfer of these deeds on the basis of the lease of land in perpetuity. At no time has the Mission intimated to the Chinese authorities that it wished to lease land on any other basis. It is, therefore, again requested that the Jukao Magistrate be instructed to stamp the deeds of the Mission in strict conformity with existing treaty provisions.

I avail myself [etc.]

For the Minister:  
**MAHLON F. PERKINS**  
*Counselor of Legation*

#### DIFFICULTIES IN CHINA OF THE CENTRAL ASIATIC EXPEDITION OF THE AMERICAN MUSEUM OF NATURAL HISTORY\*

031.11 American Museum of Natural History (4th Asiatic)/91

*Memorandum by the Minister in China (Johnson) of a Conversation  
 With the Chinese Minister for Foreign Affairs (C. T. Wang)*<sup>10</sup>

[NANKING,] February 27, 1930.

Subject: Legislation Concerning Archeological and Paleontological Finds.

During the course of a luncheon at the home of Vice Admiral Chen, I told Dr. Wang that I was very much interested in the question of prospective legislation which I understood was before the Legislative Yuan relative to exploration in China conducted by scientific organizations. I stated that both I and Dr. Osborn<sup>11</sup> had had long conversations with the Chinese Minister in Washington on this subject and that Mr. Stimson, Secretary of State, was also very much interested, that Mr. C. C. Wu had given me to understand that the Chinese Government was investigating the whole question of such legislation through its diplomatic missions abroad for the purpose of determining international practice in such matters, and had stated that he was confident that, in enacting such legislation, the Chinese Government would be certain to adopt the practice most generally followed and would differentiate between archeological and paleontological finds.

\* Continued from *Foreign Relations*, 1929, vol. II, pp. 841-853.

<sup>10</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 97, March 20, 1930; received April 23.

<sup>11</sup> President Henry Fairfield Osborn of the American Museum of Natural History, New York.

I said that scientific bodies in the United States and other parts of the world were extremely interested in Central Asia as the possible home of pre-historic and early historic man, and that China possesses the key to this and is, therefore, in a position of great responsibility to the world of science.

Dr. Wang stated that they realized this and the question was, whether an ancient object discovered within Chinese territory was the property of China or was the property of the finder. I said this was the question which had to be decided, that it was our theory and, I believe, the general practice, that a differentiation was made between archeological remains which were essentially a part of the national history of the people and paleontological finds which were essentially the property of the human race, and that following this theory, we were inclined to believe that the finder who raised the funds and had the enterprise to make the discovery could take and keep for personal study the find, being, of course, under obligation to make the results of his study available to mankind in general, that it was on the basis of this theory that Dr. Osborn and the Museum of Natural History desired to add to their collections the originals of any finds they might make.

Dr. Wang stated that during the visit he recently made to Peiping he had discussed this whole matter at a meeting of the Committee and had discovered to his great sorrow that there had been a difference of viewpoint on this subject between the Committee and Dr. Roy Chapman Andrews, the head of the Expedition sent out by the Museum of Natural History. He said at one time Dr. Andrews had been willing to sign a statement wherein he would agree to leave all original specimens in China and carry away only duplicates. I interrupted at this point to say it was my understanding that the Museum of Natural History took just the other view, namely that being the sponsors and financiers of the expedition, they had a natural claim to the originals of all new material found, that they were willing to make casts of all new material and leave such casts as well as duplicates in China.

Dr. Wang stated that his understanding was quite different on this point, that this, of course, the Cultural Society in Peiping could not agree to.

I told Dr. Wang at this point I thought if this was the case we ought to tell Dr. Osborn so in order that we might settle this question and not keep them waiting any longer in Peiping. He then said he was not certain of this matter and would like to have an opportunity of investigating before making any positive statement.



031.11 American Museum of Natural History (4th Asiatic) /92

*Memorandum by the Minister in China (Johnson)*<sup>12</sup>

[NANKING,] May 1, 1930.

In the course of a conversation today with the Minister for Foreign Affairs, the latter volunteered the information that everything had been settled in connection with the expedition of Dr. Roy Chapman Andrews. He said that he was writing a formal letter concerning this matter very shortly. He said that everything was now settled.

I told him I was very glad to hear this and I would telegraph this information to Dr. Andrews who was very anxious to hear about the matter.<sup>13</sup>

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**EFFORTS FOR THE CONSIDERATION OF AMERICAN CLAIMS OUT-  
STANDING AGAINST CHINA**<sup>14</sup>

493.11/1423

*The Secretary of State to the Minister in China (MacMurray)*

No. 1138

WASHINGTON, March 11, 1929.

SIR: Reference is made to your despatch No. 1794, of December 10, 1928,<sup>15</sup> asking for an expression of the Department's views in regard to the matter of pressing, with the local Chinese authorities and the National Government, claims of American citizens and concerns resulting from the looting or destruction of goods in the hands of native agents at interior points in China.

The Department considers it desirable that the American Consuls in China should continue to bring to the attention of the local authorities claims of this character as well as all other claims concerning which a local settlement might be possible, wherever and whenever it is appropriate for them to do so; and press for a settlement thereof until such time as it is apparent that further efforts to procure a local settlement will be futile.

The Department has consistently refused to acquiesce in the position taken by the Chinese authorities of disclaiming responsibility for goods lost or destroyed while in the hands of Chinese agents of American citizens or concerns, where it could be established that the title to the goods continued in American ownership. In the event of failure of local settlement, the claims will have to receive consideration with

<sup>12</sup> Copy transmitted to the Department without covering despatch; received June 19, 1930.

<sup>13</sup> The expedition to Mongolia in the summer of 1930 was the last one, for permission was not granted again in 1931 and further attempts were abandoned in 1932.

<sup>14</sup> For previous correspondence on the subject of American protests in regard to loans to China in default, see *Foreign Relations*, 1929, vol. II, pp. 817 ff.

<sup>15</sup> Not printed.

a view to their presentation to the central authorities. However, inasmuch as it is not deemed desirable to present any particular claims to the National Government until the question of arranging a plan for the consideration of all claims has been disposed of, claims which have failed of local settlement should not be presented to the National Government at this time.

I am [etc.]

For the Secretary of State:  
NELSON TRUSLER JOHNSON

493.11/1499

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*The Acting Secretary of State to the Chargé in China (Perkins)*

No. 1467

WASHINGTON, February 3, 1930.

SIR: The Department refers to the Legation's telegram No. 930 of October 26, 1929,<sup>16</sup> relating to the adjustment of debts owed by the Chinese Government to American citizens and organizations and to the presentation of claims by American citizens against that Government. In this telegram the Legation stated that it did not consider that circumstances were then advantageous for the presentation of American claims, but requested that the Department inform the Legation of the nature of the survey of outstanding accounts and claims which had been made by the Department.

The failure of the Department to receive any further advice in this connection from the Legation leads to the inference that the Legation is still of the opinion that circumstances do not favor an attempt to take up with the Chinese Government the adjustment of these outstanding debts and claims. However, the Department believes that it would be desirable that Mr. Nelson T. Johnson, American Minister, as soon after his assumption of office as may be practicable, give the matter his attention, with a view to possible early negotiations with the Chinese Government on this subject. The Department considers the matter pressing, not only because of certain rights in law and equity enjoyed by the American citizens involved, but also because in the course of any further delay the Chinese Government may hypothecate for other purposes revenues that might be devoted to the service of obligations to American citizens.

As of probable assistance to the American Minister in his consideration of the matter, the Department transmits herewith in duplicate a suggested protocol of agreement between the two Governments, and a survey of the claims and complaints filed with it by American citizens.

It will be observed that the suggested protocol of agreement between the two Governments provides for the establishment of a tribunal for the examination and the adjudication of outstanding claims. This

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<sup>16</sup> *Foreign Relations*, 1929, vol. II, p. 828.

arrangement, which contemplates a single judge, or commissioner, to pass upon the claims, would, if adopted, conduce not only to economy of operation but would tend to the early completion of the work. It is not anticipated that any difficulty would be experienced in obtaining a commissioner thoroughly acceptable to both Governments.

The enclosed report of the survey made by the Department covering the period January 1, 1912, to January 10, 1929, inclusive,<sup>17</sup> shows that there have been disclosed claims and complaints which might possibly contain elements upon which claims could be based, to the total number of 1,398, involving alleged damages or losses in the aggregate amount of \$38,062,000. In this number, however, are 231 cases in which no amounts are given as to losses suffered. The amounts claimed, although in various currencies, have been reduced to the equivalent of the American dollar and where interest was not stated, that item has been omitted.

Doubtless there has been some duplication of cases in this report, but this has been unavoidable owing to the inability of the Department upon the basis of the records examined, to make a positive recheck of the cases. There are indications, also, of two or more sets of correspondence relating to the same case. Reports have been received since the completion of the survey as to further claims, and other cases will doubtless be reported.

In regard to the sufficiency of the survey, as that point might come up for consideration in connection with the negotiations with the Chinese Government for the working out of a satisfactory plan whereby the whole body of outstanding claims might be adjusted to the satisfaction of the two Governments and the claimants, the American Government, of course, would not contend that the survey has developed definitive bases as to the number and amount of bona fide claims, since a critical examination of the cases must disclose duplication, overlapping and, possibly, payments having been made in the case of certain claims. Moreover, some of the incidents have been regarded as possibly constituting a basis for claims which on development may prove to be insufficient.

The examination that has been made of the papers in the Department's files in connection with this survey indicates that some of the claims would be based upon debts of the Chinese Government for supplies and materials furnished, some others grow out of alleged breach of contractual obligations of the Chinese Government, while still others are predicated upon some alleged tortious action of the Chinese Government. In a number of cases liability has been admitted by the Chinese Government and in some cases partial payments have been made. The debt claims alone amount approximately to \$30,000,000.

<sup>17</sup> Not found in Department files.

In the circumstances it might be contended that the liquidated claims, the debt claims, and the claims where liability has been admitted should preferably be disposed of through some debt funding arrangement, but the Department considers that even in such cases the settlement would better be made by the agency (preferably a commission) that is established to examine and adjudicate the tort claims. There would necessarily be some justiciable question in each case, and moreover, the settlement arrived at would be definitive.

If it should be discovered that the Chinese Government has itself prepared machinery for handling its outstanding debts and claims, such as the commission which was referred to in the Legation's telegram No. 893 of October 16, 1929,<sup>18</sup> the Department desires that the American Minister discuss the relative advisability of adopting the procedure devised by the Chinese Government and of making to the Chinese Government the proposal represented by the enclosed draft protocol of agreement. The Department would likewise be interested to learn whether other governments have taken or are seriously considering measures for the adjustment of the debts and claims of their citizens against the Chinese Government.

I am [etc.]

J. P. COTTON

[Enclosure]

*Suggested Protocol of Agreement Regarding American Claims  
Against China*

Protocol of Agreement Between the United States and China for the Examination and Adjudication of Claims Against China of American Nationals, Signed at . . . . . 1930.

The United States of America and the Republic of China desiring to settle and adjust amicably unsettled claims of American nationals against China arising since December 31, 1911, and which have been or may be presented to the Government of the United States for its interposition, have resolved to submit the claims for examination and adjudication to a Commissioner and have appointed as their plenipotentiaries to sign an agreement for that purpose:

The President of the United States of America, Mr. . . . . .  
. . . . . American Minister,

The President of the Republic of China, Mr. . . . . .

Who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

ARTICLE I

The two governments shall agree upon the selection of a Commissioner who shall pass upon all claims against China of nationals of

<sup>18</sup> *Foreign Relations*, 1929, vol. II, p. 827.

the United States, whether corporations, companies, associations, societies, partnerships or individuals, resulting from acts or omissions of the Chinese Government or of agents, officials, or others acting for the Chinese Government, or of any local authority, embraced in the following categories:

1. Claims for injuries to or death of persons, nationals of the United States.
2. Claims for loss of or damage to property, rights and interests and for breach of contract.
3. Debts owing to American nationals by the Government of China, or its agencies, or by the local authorities.

The Commissioner shall determine the amounts to be paid in satisfaction of all such claims including the amount of interest to be allowed on each adjudicated claim and the time from which the interest shall begin to run.

If the two Governments shall not agree within two months from the exchange of ratifications of this Agreement in naming the Commissioner, he shall be designated by the President of the Permanent Administrative Council of the Permanent Court of Arbitration at The Hague described in Article XLIX of the Convention for the pacific settlement of international disputes concluded at The Hague on October 18, 1907.<sup>19</sup> In case of the death or incapacity of the Commissioner, or in the event of his omitting or ceasing to act as such, the same procedure shall be followed for filling the vacancy as was followed in appointing him.

## ARTICLE II

The Commissioner shall hold a session at a place selected by him within two months after he has been designated. He may fix the time and place of subsequent sessions according to convenience. All claims shall be notified to the Commissioner within one year from the date on which he holds his first session.

## ARTICLE III

The Commissioner shall cause to be kept an accurate record of the questions and cases submitted and correct minutes of proceedings. To this end each of the governments may appoint a secretary, and these secretaries shall act together as joint secretaries and shall be subject to the direction of the Commissioner.

## ARTICLE IV

The two governments may designate agents and counsel who may present oral or written arguments to the Commissioner.

<sup>19</sup> *Foreign Relations*, 1907, pt. 2, pp. 1181, 1191.

The Commissioner shall receive and consider all written statements or documents which may be presented to him, in accordance with rules which he may prescribe, by or on behalf of the respective governments in support of or in answer to any claim. The Government of China shall be notified of all claims filed with the Commissioner and shall be given such period of time as the Commissioner shall by rule determine in which to answer any claim filed. The Commissioner before entering upon his duties shall make and subscribe a solemn declaration stating that he will carefully and impartially examine and decide, according to the best of his judgment and in accordance with the principles of international law, justice and equity, all claims presented for decision, and such declaration shall be entered upon the record of the proceedings of the Commission. It is agreed by the High Contracting Parties that no claim shall be disallowed or rejected by the Commissioner by the application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity or allowance of any claim.

The decisions of the Commissioner shall be accepted as final and binding upon the two governments.

#### ARTICLE V

The amounts awarded to claimants shall be paid in United States gold coin or its equivalent by the Chinese Government to the Government of the United States.

#### ARTICLE VI

Each government shall pay its own expenses, including the compensation of the secretary appointed by it and that of its agents and counsel. All other expenses which by their nature are a charge on the two governments, including the compensation of the Commissioner and such employees as he may appoint to assist him in the performance of his duties, shall be borne one-half by the Government of the United States and one-half by the Government of China.

#### ARTICLE VII

This agreement shall be ratified in accordance with the constitutional forms of the High Contracting Parties and shall come into force on the date of the exchange of ratifications.

IN FAITH WHEREOF, the above named plenipotentiaries have signed the present agreement and have hereunto affixed their seals.

Done in duplicate at . . . . . this . . . . . day of . . . . .  
1930.

893.51/5239

*The American, British, and French Representatives in China to the Chinese Minister for Foreign Affairs (C. T. Wang)*<sup>20</sup>

With reference to the Joint Note of the 24th of June last,<sup>21</sup> on the subject of the Hukuang Railways 5 per cent Gold Loan of 1911, the Undersigned Representatives of France, the United States of America and Great Britain have the honour to invite the attention of His Excellency the Minister for Foreign Affairs to the default that has again occurred in the service of this loan, no provision having been made for the interest and amortisation, amounting in all to £195,629.7.1. due for payment on December 3rd last. The addition of this sum to the arrears previously outstanding brings the total accumulation of arrears to a sum of £1,488,967.2.5. not including the interest due on drawn but unredeemed bonds.

The interested Representatives must once again draw His Excellency's most serious attention to the fact that still no means have been devised to meet this ever increasing accumulation of arrears and must urge that the necessary instructions be issued by the National Government to the departments concerned to look into the matter and to take steps to provide the necessary funds in the manner clearly set forth in the terms of the Loan Agreement.

It has been noted that, in a letter from the Ministry of Railways to the interested Banks under date of December 3rd, a letter from the Ministry of Finance is quoted stating that "as the likin taxes in Hunan and Hupeh Provinces have not been actually abolished, the necessity for consideration of an equivalent amount from the increased Customs revenues does not arise". This statement would seem to imply that revenue is still being derived from the likin taxes of Hunan and Hupeh, and if that is the case, the interested Representatives would suggest that such revenue, as and when it is received by the National Government, should properly be applied to the service of the loan in accordance with the terms of the Loan Agreement of 1911.

D. DE MARTEL  
NELSON TRUSLER JOHNSON  
E. M. B. INGRAM  
(Counsellor of Legation  
for His Majesty's Minister)

PEIPING, 12 February, 1930.

<sup>20</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 35, February 19, 1930; received March 28.

<sup>21</sup> Not printed.

693.9431/38 : Telegram

*The Ambassador in Japan (Castle) to the Secretary of State*

[Extracts]

Tokyo, March 18, 1930—11 a. m.

[Received March 18—8:17 a. m.]

47. My No. 43, March 12, 4 p. m.<sup>22</sup> The Foreign Office has furnished me with an outline of the agreement . . .

Add following paragraph:

"No. 6. Notification by the National Government of its intention to call a conference of the representatives of creditors on or before October 1, 1930, for effectuating the consolidation of the unsecured and inadequately secured obligations of China."<sup>23</sup>

Repeated to Peiping.

CASTLE

693.9431/38 : Telegram

*The Acting Secretary of State to the Ambassador in Japan (Castle)*

WASHINGTON, March 19, 1930—5 p. m.

51. Your telegram 47 dated March 12 [18], 4 p. m. [11 a. m.]

Does paragraph "No. 6" refer to a general conference of the representatives of creditors or only to representatives of Japanese creditors? Shanghai press despatch relating to the new agreement states that Japan "induced Nanking to reaffirm the Nishihara loans."<sup>24</sup> Have you any information on this point?

COTTON

693.9431/39 : Telegram

*The Ambassador in Japan (Castle) to the Secretary of State*

Tokyo, March 20, 1930—4 p. m.

[Received March 20—8:47 a. m.]

52. Department's telegram 51, March 19, 5 p. m. Foreign Office states that paragraph 6 refers to all creditors foreign and Chinese. I shall endeavor to obtain information regarding Nishihara loans specifically at the next favorable opportunity.

CASTLE

<sup>22</sup> Not printed; it contained Japanese press reports on five provisions of the agreement between the Republic of China and the Empire of Japan regulating customs relations between the two countries, initiated March 11, 1930. For text of the agreement signed at Nanking, May 6, 1930, see League of Nations Treaty Series, vol. cvi, p. 295.

<sup>23</sup> For exchange of notes on this subject, see *ibid.*, p. 318.

<sup>24</sup> So-called; they were unsecured Japanese loans to China during the World War.



493.11 Standard Oil Company-Chih Tsun, Yunnan/1

*The Minister in China (Johnson) to the Secretary of State*

No. 100

PEIPING, March 24, 1930.

[Received April 23.]

SIR: I have the honor to request an expression of the Department's views in connection with the enclosed despatch No. 135, of February 18, 1930, from the Consul at Yunnanfu,<sup>25</sup> entitled "Claim of the Standard Oil Company of New York Against the Yunnan Provincial Government for Looting of Agency by Military." Further enclosed is a copy of Mr. Chamberlain's despatch No. 22, of August 29, 1928,<sup>25</sup> referred to in the above mentioned despatch of February 18th. A copy of his despatch No. 134, of February 17, 1930,<sup>25</sup> entitled "Claims Against the Chinese Authorities" (likewise referred to in his despatch of February 18th) is being sent to the Department by the Legation without covering despatch.

The question here involved is the familiar one of the loss of goods in the hands of the Chinese agents of American firms doing business in the interior of the country, the position of the American Government being that where it can be established that the title to the goods continues in American ownership the Chinese authorities may be held responsible for their loss or destruction (Department's instruction No. 1138, of March 11, 1929).

Let me add that I have been informed by the manager of the Shanghai branch of the Standard Oil Company of New York that the Company plans in the comparatively near future to lay before the Department a memorial, prepared substantially in accordance with the Department's form of "Application for the Support of Claims against Foreign Governments", in which are listed all of the Company's pending claims against local and other Chinese authorities. A large number of the claims will be for reimbursement for the loss (usually by looting) of stocks in the hands of native agents in the interior, the claims having previously been presented for settlement to the Provincial authorities concerned by American Consular officers without success. Several hundred claims will be involved, and I feel very strongly that the best way of effecting an adjustment of them as well as of the numerous pending claims of other American organizations and individuals against the Chinese Government will be through the agency of some such commission as that envisaged in the Department's instruction No. 1467, of February 3, 1930. I intend to broach this subject personally with the Minister for Foreign Affairs on my next visit to Nanking.

I have [etc.]

NELSON TRUSLER JOHNSON

<sup>25</sup> Not printed.

898.51/5241 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, April 3, 1930—9 p. m.

[Received 10:29 p. m.<sup>26</sup>]247. Your 105, March 27, noon, 1929.<sup>27</sup>

1. Referring to his letter of March 16, 1929 (Legation's despatch No. 1995, March 23, 1929<sup>28</sup>) Mr. C. R. Bennett, American group representative in China of the Hukuang Railways loan group banks, in a letter of March 10, 1930<sup>28</sup> stated that a year has now passed without any improvement in the situation created by the fact that the security of the Maritime Customs for all practical purposes has been reserved exclusively for domestic loans, leaving ignored the unpaid claims of foreign bondholders and other creditors. While admitting some doubt as to whether the matter could be taken up advantageously with the Nanking authorities at the present junction [*juncture?*] by the designated representatives of the United States, Great Britain, France and Japan, Bennett expressed the hope that it would be acted on at the earliest opportunity. He enclosed a copy of a memorandum prepared by the French group representative<sup>28</sup> relating to the present state of the customs liability, from which it appears the annual charges both internal and foreign for the current year to be borne by the Customs Administration will be in the neighborhood of 100 million dollars Chinese currency. The memorandum further sets forth:

(a) That while the customs administration has been intrusted to make a yearly provision for 5 million only for the consolidation of both external and internal loans in default, no less than 275 million of new internal obligations have since been secured by the Chinese Ministry of Finance on the customs revenue representing for 1930 interest and amortization charges totaling 48 million dollars.

(b) That in considering domestic charges on the customs revenue, account should be taken of the arrears due in respect of some internal loans the service of which the Ministry of Foreign Affairs has been unable to meet in accordance with the original amortization table. The amount of these arrears due to be liquidated from future customs revenue is over 32 million.

(c) That in view of the decision of the National Government to abolish likin and similar taxes throughout China as from October 10, 1930, the Hukuang Railway and Tientsin-Pukow Railway loans will have to be included under a separate heading of contingent customs obligations.

2. My British colleague proposes on April 7th to address a note to the Minister of Foreign Affairs, referring to Minister Soong's

<sup>26</sup> Telegram in three sections.<sup>27</sup> *Foreign Relations*, 1929, vol. II, p. 821.<sup>28</sup> Not printed.

annual message for July 1928 to June 1929 (my despatch dated Nanking March 14, 1930)<sup>20</sup> and concluding substantially as follows:

"While fully appreciating, therefore, the difficulties with which the National Government is confronted, I feel that I cannot urge too strongly the importance of taking, without further delay, some practical measure with a view to alleviating the injustice caused to the foreign creditor by the present policies [*policy of*] pledging the only available revenues of the Government for new issues of internal loans, while prior foreign obligations, whether secured on specific revenues, or merely on the pledged word of the Chinese Government and its departments, remain uncared for."

3. The Department's instructions as to the desirability, if only for purposes of record, of similar action by this Legation are respectfully solicited.

JOHNSON

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893.51/5241 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, April 8, 1930—4 p. m.

124. Your 247, April 3, 9 p. m., last paragraph. As you are aware, the Department is desirous that definite steps be taken as soon as practicable toward settlement of outstanding obligations of the Chinese Government to American citizens. Department therefore authorizes you to urge the National Government to take, without further delay, some practical measure for the relief of American creditors. While authorizing you to make such changes as you may desire, the Department suggests a note in substance as follows:

[Here follows text used as basis for note to the Chinese Minister for Foreign Affairs, dated April 12, 1930, printed as enclosure to despatch No. 147, *infra*.]

COTTON

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893.51/5261

*The Minister in China (Johnson) to the Secretary of State*

No. 147

PEIPING, April 15, 1930.

[Received May 22.]

SIR: With reference to the Department's telegram No. 124, of April 8, 4 p. m., authorizing me to address a note to the Minister for Foreign Affairs urging that some practical measure be taken without further delay for the relief of American creditors, I have the honor

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<sup>20</sup> Not printed.

to enclose a copy of my note No. 57, of April 12, 1930, to Dr. Wang in the matter.

Let me add, with reference to paragraph two of my telegram No. 247, of April 3, 9 p. m., that I have sent my British Colleague a copy of this note.

I have [etc.]

NELSON TRUSLER JOHNSON

[Enclosure]

*The American Minister (Johnson) to the Chinese Minister for Foreign Affairs (C. T. Wang)*

No. 57

PEIPING, April 12, 1930.

EXCELLENCY: I have the honor to recall to Your Excellency that Mr. MacMurray, my predecessor, in a note No. 680, of October 19, 1928,<sup>30</sup> invited the attention of the National Government to the continuing obligation resting on the Chinese authorities to ensure the payment of sums due American creditors and pointed out that Customs collections were the sole source of revenue actually available for the satisfaction of a number of American debts and other liquidated claims then in default. In replying to this communication, Your Excellency, in a note of December 4, 1928,<sup>31</sup> stated in part that Customs collections were not the only source from which American loans and other claims might be paid and that the Ministry of Finance would wait until unsecured foreign loans had been given collective consideration and would then stipulate a procedure by which they might be handled individually.

I have the honor to state that considerably more than a year has elapsed since the receipt of the communication above referred to and that so far as I am informed no effective steps have been taken by the National Government in the matter of the payment of defaulted obligations to American creditors. On the other hand it is a matter of common knowledge that the Customs and other national revenues have been pledged by the National Government as security for new loans.

My Government cannot but believe that the Chinese Government realizes the desirability from every point of view of promptly meeting its obligations to the American creditors concerned. I am now instructed by my Government to ask that Your Excellency be so good as to inform me in detail with regard to any plans which may have been decided upon by Your Excellency's Government and further to

<sup>30</sup> See telegram No. 772, October 15, 1928, from the Minister in China, *Foreign Relations*, 1928, vol. II, p. 532.

<sup>31</sup> See telegram No. 871, December 12, 1928, from the Minister in China, *ibid.*, p. 536.

urge that Your Excellency's Government provide without further delay for the prompt safeguarding of the American interests concerned.

I avail myself [etc.]

NELSON TRUSLER JOHNSON

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893.51/5262

*The Minister in China (Johnson) to the Secretary of State*

No. 156

PEIPING, April 17, 1930.

[Received May 22.]

SIR: With reference to the Legation's despatch No. 35, of February 19, 1930,<sup>32</sup> respecting a further default on December 3, 1929, in the service of the Hukuang Railways Loan of 1911, I have the honor to enclose a letter of February 8, 1930, addressed to Mr. Sun Fo, the Minister of Railways, by the Hukuang Railways Loan Group Banks,<sup>33</sup> in which the Group Banks express the hope, in view of the report that likin is to be abolished, "that the National Government may now see its way to give full effect to the provision of Article IX of the Hukuang loan agreement and to transfer that important international obligation to the care of the Customs Administration." Likewise enclosed is a translation of a note reported to have been addressed to the Ministry of Finance by Mr. Sun Fo on March 3, 1930,<sup>33</sup> referring to the letter from the Group Banks. The text of the note, in Chinese, was given privately to the Consul at Nanking by an official of the Ministry of Railways.

Mr. Sun Fo, in his note to the Ministry of Finance, suggests that, in compliance with the provisions of the Hukuang Railways Loan Agreement, the annual appropriation of 4,250,000 Haikwan Taels from the likin charges of Hupeh and Hunan be replaced by Customs revenue, in order to pay the principal and interest of the loan. Mr. Sun Fo also suggests that the original and supplementary Tientsin-Pukow Railway Loans be secured on the Customs revenue after the abolition of likin, "in order to conform to the original agreements and manifest national good faith."

I have [etc.]

NELSON TRUSLER JOHNSON

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<sup>32</sup> Despatch not printed; for joint note which it transmitted, see p. 586.

<sup>33</sup> Not printed.

893.51/5245

*The Secretary of State to the Continental Illinois Bank and Trust Company, of Chicago*

WASHINGTON, May 14, 1930.

SIRS: The Department has received your letter of April 29, 1930,<sup>24</sup> in which, in connection with a report that the Government of China intends to abolish likin and similar taxes from October 10, 1930, you referred to a loan made to the Government of China by the Continental and Commercial Trust and Savings Bank (Continental Illinois Bank and Trust Company, Chicago, successor thereto) under an agreement<sup>25</sup> in which the Chinese Government declared that the Treasury notes evidencing the obligation are a direct charge on certain revenues of certain provinces of China "whether such receipts be in the nature of Likin Taxes, Transportation Taxes, or other taxes or imposts of like nature".

You state that the Chinese Government has defaulted as to both principal and interest of the loan and you request the Department's assistance "to prevent the threatened destruction of the security" on which the loan was made.

The Department had previously requested that the American Minister to China investigate and report upon the possibility of entering into negotiations with the Chinese Government for the settlement of outstanding debts and claims held by American citizens. A copy of your letter under acknowledgment is being sent to the Legation at Peiping and the American Minister is being asked to consider it in connection with his investigation above mentioned. The Department will not fail to give attentive consideration to the matter and will communicate with you again upon the receipt of a report from the Legation.

Very truly yours,

For the Secretary of State:  
STANLEY K. HORNBECK  
*Chief, Division of Far Eastern Affairs*

893.51/5245

*The Secretary of State to the Minister in China (Johnson)*

No. 113

WASHINGTON, May 14, 1930.

SIR: The Department transmits herewith a copy of a letter dated April 29, 1930, received from the Continental Illinois Bank and Trust

<sup>24</sup> Not printed.

<sup>25</sup> Agreement and supplemental agreement signed at Washington, October 11, 1919 (893.51/2501).

Company, Chicago, Illinois,<sup>37</sup> requesting that the Department take certain action in connection with the alleged threatened destruction of the security assigned to a loan of \$5,500,000 made by the Continental and Commercial Trust and Savings Bank, predecessor to the Continental Illinois Bank and Trust Company, on October 11, 1919.

A copy of the Department's reply to the letter from the Continental Illinois Bank and Trust Company is enclosed herewith.<sup>38</sup> The Department requests that the Legation give careful attention to this correspondence with particular reference to the question of the possibility of entering into negotiations with the Chinese Government for the adjustment of outstanding debts and claims against that Government held by American citizens. The Department understands that it was your intention to take up this matter with the Minister for Foreign Affairs on the occasion of your present visit to Shanghai and Nanking (see the Legation's despatch No. 100, March 24, 1930, last paragraph).

With reference to the request made by the Continental Illinois Bank and Trust Company that the Department protest to the Chinese Government against the abolition of certain likin taxes, such taxes having been assigned as security for the loan negotiated in 1919, the Legation's attention is invited to its despatch No. 35, of February 19, 1930<sup>37</sup> and to the last paragraph of the third enclosure therewith, being a copy of a note, dated February 12, 1930, addressed to the Chinese Government by the diplomatic representatives of the United States, France and Great Britain,<sup>39</sup> relating to the reported abolishment of likin taxes assigned as security for the Hukuang Railways loan of 1911. While the Department would prefer that a method be adopted for taking up simultaneously with the Chinese Government all outstanding obligations due to American citizens, nevertheless, the Department suggests for your comment the question whether it would be advisable to approach the Chinese Government in regard to the loan referred to in the enclosed letter without awaiting the adoption of a general plan. An argument that would seem to be in favor of such a course is to be found in the similarity, so far as the assignment of likin taxes as security is concerned, between the Hukuang Railways loan and the loan now under discussion, repeated representations having been made by the Legation in recent years in regard to Hukuang defaults. It is to be borne in mind, also, that bonds issued pursuant to the Chicago Bank loan are understood to be held by large numbers of American citizens who were purchasers in good faith, and that the Department addressed to the Continental and

<sup>37</sup> Not printed.

<sup>38</sup> *Supra.*

<sup>39</sup> *Ante*, p. 588.

Commercial Trust and Savings Bank, on October 21, 1919, a letter<sup>40</sup> commenting favorably on the loan now under discussion and ending with the statement that "To the accomplishment of this end, this Government is willing to take all proper steps to ensure the execution of equitable contracts which are made in good faith".

The Department awaits with interest the receipt of the Legation's comments and suggestions regarding the handling of this matter.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

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493.11 Standard Oil Company-Chih Tsun, Yunnan/3

*The Secretary of State to the Minister in China (Johnson)*

No. 118

WASHINGTON, May 21, 1930.

SIR: The Department refers to your despatch No. 100 of March 24, 1930, in which you request an expression of its views in connection with despatch No. 135 of February 18, 1930, from the Consul at Yunnanfu,<sup>41</sup> entitled "Claim of the Standard Oil Company of New York against the Yunnan Provincial Government for Looting of Agency by Military".

In reply to the request made by the American Consul at Yunnanfu on behalf of the Standard Oil Company that that Company be indemnified for merchandise looted by soldiers from the premises of a Chinese agent, the Chinese authorities at Yunnanfu rely principally on two contentions viz. (1) that in the case of the robbing of foreign merchants the Chinese Government is required by the treaties merely to apprehend offenders and to endeavor to recover the lost property and, (2) that the treaties prohibit foreigners from establishing places of business or warehouses in the interior.

The Legation's despatch under acknowledgment refers to the Department's instruction No. 1138, of March 11, 1929, wherein it was stated that the Department does not acquiesce in the position taken by the Chinese authorities of disclaiming responsibility for goods lost or destroyed while in the hands of Chinese agents of American citizens or concerns, when it can be established that the title to the goods continues in American ownership. The Department sees no reason to recede from this position. In such cases it must, of course, be conclusively shown that title to the goods, for the loss of which indemnity may be sought, was at the time of loss vested in the American company and not in the Chinese agent.

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<sup>40</sup> *Foreign Relations*, 1919, vol. I, p. 525.

<sup>41</sup> Despatch No. 135 not printed.



In regard to the right of American citizens to enter into agency contracts with Chinese persons or firms in the interior, you are referred to the Department's instruction No. 295 of September 7, 1921,<sup>43</sup> which contained the following paragraphs:

"While the treaties generally limit to the treaty ports the right of alien business men, resorting to China for purposes of trade, to establish business houses, they have specifically removed all restrictions upon the extent to which such business men may establish business relations with the citizens of China. It is the opinion of the Department that Article XV of the treaty of 1844, between the United States and China<sup>44</sup> is sufficient authority for an American firm or business man in China to establish whatsoever business relations he may deem proper with 'any and all subjects of China without distinction'. Such relations, however, would not be deemed to change the status of such a Chinese in so far as Chinese law and regulations are concerned.

"Attention is also invited to Article IX of the British Treaty of June 26, 1858 (*Treaties, Conventions, etc., between China and Foreign States*, Customs Edition, Volume I, page 215) which permits British subjects to travel 'for purposes of trade, to all parts of the Interior, under passports, which will be issued by the Consuls', etc. This privilege is also enjoyed by citizens of the United States by reason of the most favored nation section of Article III of our treaty of 1903 with China. (Malloy's *Treaties*, Volume 1, page 263)."

The Department has examined the correspondence which has passed between Mr. Chamberlain, American Consul at Yunnanfu, and the Chinese authorities in regard to the claim made by the Standard Oil Company for compensation in the case under review. The Department commends Mr. Chamberlain for the energy and ability displayed by him on behalf of the American interests involved. However, the Department refers to page 3 of the communication of March 14, 1929, addressed by Mr. Chamberlain to the Bureau of Foreign Affairs at Yunnanfu<sup>45</sup> on which page Mr. Chamberlain stated that he agreed that Article XIII of the Sino-American Treaty of 1858<sup>46</sup> might be considered entirely applicable to the case under discussion. The Article in question specifically refers to the loss of merchandise on merchant vessels of the United States and it does not, therefore, seem to the Department that its stipulations can be held to apply in the case of a robbery which has taken place on land. In another passage on the same page of the communication Mr. Chamberlain stated most emphatically that neither the Standard Oil Company nor the American Consulate would "expect the Chinese authorities to make compensation for loss of property due to the acts of brigands." The Department believes that this assertion, so far as it might be held to involve

<sup>43</sup> Not printed.

<sup>44</sup> Miller, *Treaties*, vol. 4, p. 559.

<sup>45</sup> Malloy, *Treaties*, 1776-1909, vol. 1, p. 211.

this Government is not entirely consistent with the position taken by the Department in some previous instances, see for example the Legation's despatch No. 250 of June 1, 1914,<sup>45</sup> in regard to the losses of American citizens at Laohokow, Hupeh, due to action by bandits in 1913, and the Department's reply of July 1, 1914.<sup>46</sup> In this case the American Government authorized for presentation to the Chinese local authorities on behalf of American citizens a request for the indemnification of losses arising from the action of bandits. The Department believes that in certain circumstances, the failure of the Chinese authorities to take measures for the protection of American property from bandit depredations might afford to the American owners grounds upon which to base a demand on the Chinese Government for indemnification.

The Department is gratified at the announcement of your intention to take up with the Minister for Foreign Affairs the matter of agreeing upon a procedure for adjusting outstanding claims of American citizens against the Chinese Government.

A copy of this instruction is enclosed for transmission to the American Consul at Yunnanfu.

I am [etc.]

For the Secretary of State:  
FRANCIS WHITE

493.11/1516: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, June 19 [20<sup>th</sup>], 1930—6 p. m. [noon<sup>th</sup>]  
[Received June 20—4:20 p. m.<sup>47</sup>]

471. Following from the Minister at Nanking, June 19, 6 p. m.

"Please repeat to the Department the following: 'I have not as yet taken up formally with the Minister for Foreign Affairs the matter of agreeing upon a Claims Commission covered by Department's written instruction number 1467 of February 3rd, for the reason that ever since I arrived the Government has been preoccupied with a military situation threatening its very existence and I have therefore not considered the time opportune. I talked with the Foreign Minister about the Government's policy in regard to claims the other day and he told me that he was a member of a Commission at the head of which was T. V. Soong; that it had been Soong's expectation that this Commission would be ready to meet foreign claimants on or about October 1st of this present year but that the Commission appeared marking time now, and prospects were not so good because of the war which was consuming every bit of the Government's revenues. He said that he thought that it was still Minister Soong's hope that the Commission would be ready to sit on October 1st. I [He<sup>th</sup>] said that

<sup>45</sup> Not printed.

<sup>46</sup> Telegram in two sections.

the rules under which the proposed Commission would act had not yet been drawn up. He expected that when Soong was ready he would communicate the rules to him and he would then be in a position to notify the several foreign powers of their plans. The Foreign Minister told me that their plans did not necessarily exclude the negotiation of Claims Commission agreements with the interested parties.

The political situation and stability of the Government are still so vague that unless the Department desires that I proceed to formal negotiation I shall postpone further action until the situation has cleared up.'"

For the Minister:  
PERKINS

893.51/5343

*The Minister in China (Johnson) to the Secretary of State*

No. 286

PEIPING, June 24, 1930.

[Received July 30.]

SIR: With reference to the Legation's despatch No. 156, of April 17, 1930, respecting the service of the Hukuang Railways Gold Loan of 1911, I have the honor to enclose a copy of a letter, of May 12, 1930, addressed to the Minister of Railways of the Nanking Government by the Railways Loan Group Banks,<sup>48</sup> inviting attention to the amounts due in connection with the service of the loan, and again attempting to obtain a definite assurance that the claims of the Hukuang bondholders, under Article IX of the Loan Agreement, will be recognized as a charge upon the customs revenues in substitution for abolished likin.

Likewise enclosed is a translation of the reply, of May 24, 1930, from Mr. Sun Fo,<sup>48</sup> Minister of Railways, to the above note, respecting payment of £141,273-16-0, for coupon No. 32 (June, 1927) of the British, French, and American issues and coupon No. 31 (December, 1926) of the German issue.

As for the suggested transfer of the service of the loan to the customs revenues, it will be observed that the Chinese Government avoids committing itself, on the ground that no definite arrangements have been made for the abolition of likin.

Copies of the above letters were furnished the Legation by Mr. A. D. Calhoun, of the National City Bank of New York, Peiping, who succeeded Mr. C. R. Bennett as the American Group Representative in Peiping. Further enclosed is a copy of Mr. Calhoun's letter of June 19, 1930, to the Legation,<sup>48</sup> in which he reports that the above-

<sup>48</sup> Not printed.

mentioned payment of £141,273-16-0, was received in London on June 3, 1930.

I have [etc.]

For the Minister :  
**MAHLON F. PERKINS**  
*Counselor of Legation*

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893.51/5345

*The Minister in China (Johnson) to the Secretary of State*

No. 296

PEIPING, June 26, 1930.  
[Received July 30.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 113, of May 14, 1930, respecting a request by the Continental Illinois Bank and Trust Company, of Chicago, Illinois (successors to the Continental and Commercial Trust and Savings Bank), for diplomatic aid and protection in the matter of a loan of G\$5,500,000 to the Government of the Republic of China on October 1, 1919, the Chinese Government having defaulted as to both the principal and the interest on the Treasury notes issued pursuant to the loan. The bank is concerned over the projected abolition of likin (certain likin taxes being assigned as security for the loan) in accordance with a Mandate of January 17, 1930, published in a Gazette No. 372 of January 18, 1930, of the National Government. The Mandate reads, in translation, as follows: "On and from October 10, 1930, all likin charges as well as all taxes and imposts which are similar to likin throughout China shall be abolished uniformly."

The Department states that it desires the Legation's comments and suggestions regarding the handling of the matter: Referring first to the question of entering into negotiations with the Chinese Government for the adjustment in general of the various outstanding obligations of the Chinese Government toward American citizens, I beg to state that the Legation concurs with the Department in feeling it desirable that there should be a simultaneous presentation of claims on the basis of a general plan, presumably involving the creation of a claims commission as laid down in the Department's written instruction No. 1467, of February 3, 1930. However, Minister Johnson, after a discussion of the subject in Nanking with the Minister for Foreign Affairs (the Legation's telegram No. 471, of June 20, 12 noon), does not consider the present to be an opportune time for entering into negotiations with the Chinese Government along these lines inasmuch as the current civil war is consuming every bit of the Nanking Government's revenues. Perhaps this situation will change before autumn with the result that the Chinese Government may find itself

in a position, on October 1, 1930, to call its proposed conference of the representatives of its creditors. As indicated in my despatch No. 259, of June 12, 1930,<sup>52</sup> the Legation addressed a note of that date to the Foreign Office, requesting information as to the steps being taken by the Chinese Government to bring this conference about. No reply as yet has been received, and I conclude from Minister Johnson's conversation with Dr. Wang that no effective or definite steps are being taken by the Nanking Government in the matter under present circumstances.

Pending a time (which, as suggested above, perhaps may be this autumn) when consideration of all claims in accordance with a general plan may be undertaken, there seems to the Legation to be no objection to inviting the attention of the Minister for Foreign Affairs of the Nanking Government, "for purposes of record", to the Continental Illinois Bank and Trust Company's claim (Department's telegram No. 176, of May 26, 3 p. m.<sup>52</sup>). The Department's authorization accordingly is solicited to address a note to Dr. C. T. Wang along the lines of the enclosed draft.<sup>52</sup>

In the Department's instruction under acknowledgment, reference was made to the Legation's representations respecting defaults in the service of the Hukuang Railways Gold Loan of 1911, which is based on likin taxes as security. Let me state in that relation and with reference to the similar security in the case of the Chicago bank loan under advisement, that it is the belief of the Legation that no effective action looking toward the abolition of likin on October 10, 1930, is being taken by the Chinese authorities (the Legation's despatch No. 286, of June 24, 1930).

In addition to the Hukuang representations, I beg to add, as of possible interest to the Department in this connection, the following not entirely exhaustive list of claims and/or debts which the Legation has recalled to the Foreign Office recently, in advance of a general plan:

1) The question of the unpaid Liling indemnity Treasury notes (Legation's despatch No. 121, of March 31, 1930<sup>52</sup>).

2) Claims of the American International Corporation, arising from advances of money to the Chinese Government for railway construction work and for the improvement of the Grand Canal (Legation's despatch No. 237, of May 29, 1930<sup>52</sup>).

3) An indebtedness of the Chang Hsing Coal Mining Company to Andersen, Meyer and Company, Limited (Legation's despatch No. 280, of June 19, 1930<sup>52</sup>).

<sup>52</sup> Not printed.

4) The arrears in salary of certain American professors in or formerly connected with the Peiyang University at Tientsin (Legation's despatch No. 281, of June 20, 1930<sup>53</sup>).

I have [etc.]

For the Minister:  
MAHLON F. PERKINS  
Counselor of Legation

493.11/1516

*The Secretary of State to the Minister in China (Johnson)*

No. 171

WASHINGTON, July 7, 1930.

SIR: The Department has received the Legation's telegram No. 471 of June 19 [20<sup>?</sup>], 6 p. m. [noon<sup>?</sup>], repeating a telegram received from the American Minister, then at Nanking, dated June 19, 6 p. m., expressing the Minister's view that formal negotiations looking toward the settlement of outstanding obligations owed to American citizens by the Chinese Government should be postponed.

The Department believes that the reasons given by the Minister are sufficient to warrant postponing for the time being the opening of formal negotiations. The Department desires, however, that the Legation shall use all discreet means to ascertain plans that may be suggested or formulated having in view the liquidation of the foreign obligations of the Chinese Government, and that reports thereon shall be made by the Legation.

Very truly yours,

For the Secretary of State:  
FRANCIS WHITE

493.11/1527

*The Minister in China (Johnson) to the Secretary of State*

No. 376

PEIPING, August 8, 1930.  
[Received September 10.]

SIR: I have the honor to enclose a copy of a despatch No. 968, of July 28, 1930,<sup>53</sup> entitled "Claim Against Chinese Government for Property Destroyed by Rebel Army", from the Consul General at Canton.

Likewise enclosed is a copy of my reply of to-day's date in which the Legation gives expression to the belief that the destruction of property by troops in revolt against the central authorities constitutes a valid basis for a claim filed with the latter.

I have [etc.]

NELSON TRUSLER JOHNSON

<sup>53</sup> Not printed.

[Enclosure]

*The Minister in China (Johnson) to the Consul General at Canton  
(Jenkins)*

PEIPING, August 8, 1930.

SIR: I beg leave to acknowledge the receipt of your despatch No. 968, of July 28, 1930,<sup>55</sup> entitled "Claim Against Chinese Government for Property Destroyed by Rebel Army."

Let me inform you, in reply, that the Legation feels that a claim of this sort, resulting as it does from the seizure of goods by lawless elements, may rightly be filed with the duly constituted and duly recognized local authorities of your district.

Should it become evident that a local settlement is out of the question, the suggestion may be made to the claimant that the claim be prepared on or substantially in accordance with the Department's form of "Application for the Support of Claims Against Foreign Governments" for the examination of the Department and for possible later submission to the Chinese Government as a formal diplomatic claim.

Let me add that a copy of your despatch and of this reply are being sent to the Department.

I am [etc.]

NELSON TRUSLER JOHNSON

893.51/5345

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*The Secretary of State to the Minister in China (Johnson)*

No. 216

WASHINGTON, August 15, 1930.

SIR: The Department has received the Legation's despatch No. 296, of June 26, 1930, reporting in regard to the question raised by the request of the Continental Illinois Bank and Trust Company, of Chicago, Illinois (successors to the Continental and Commercial Trust and Savings Bank) that the Department take certain action in connection with the threatened destruction of the security assigned by the Chinese Government to a loan of \$5,500,000, made to that Government by the American concern, and enclosing the draft of a note <sup>55</sup> which the Legation proposes be sent to the Minister for Foreign Affairs "for purposes of record".

The Department suggests that in place of the last substantive paragraph of the draft of the note prepared by the Legation there be substituted the following:

"I have not failed to note the mandate of the National Government, dated January 17, 1930, which appeared in the Government Gazette

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<sup>55</sup> Not printed.

No. 372, of January 18, 1930, stating that 'On and from October 10, 1930, all likin charges as well as all taxes and imposts which are similar to likin throughout China shall be abolished uniformly'. In this connection it is assumed that the National Government will, in any program that may be adopted for the abolition of likin, undoubtedly give due consideration to the rights of the American company as set forth in the terms of its contract with the Chinese Government.

"In view of the fact that this claim is one of long standing, I have the honor earnestly to request that Your Excellency acquaint me with the measures which the Chinese Government has in view to settle it".

With the alteration indicated above, the Department authorizes the Legation to send the proposed note to the Minister for Foreign Affairs.<sup>50</sup>

With regard to the general question of opening negotiations looking towards the settlement of outstanding obligations owed to American citizens by the Chinese Government, the Legation should be guided by the Department's instruction No. 171 of July 7, 1930.

Very truly yours,

For the Secretary of State:  
WILLIAM R. CASTLE, JR.

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493.11/1527

*The Secretary of State to the Minister in China (Johnson)*

No. 275

WASHINGTON, October 8, 1930.

SIR: The Department acknowledges the receipt of your despatch No. 376 of August 8, 1930, and approves your instruction to the American Consul General at Canton regarding the further preparation of claims which have been found not to be susceptible of local settlement and which the claimants believe have a legal basis as formal diplomatic claims. In this connection it would seem desirable to point out to the claimant in each case that he should take every reasonable means to ascertain the precise circumstances under which the loss was sustained, while the incident is still fresh and it might be possible to obtain corroborative documentary evidence to support his allegations; and such evidence should be produced with his petition or memorial of claim. It would also be desirable for the claimant to state the grounds which, in his opinion, would obligate the Chinese Government to respond in money damages under accepted principles of international law.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

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<sup>50</sup> The Department, in its telegram No. 431, December 15, 1930, instructed the Minister in China to call the attention of the Chinese Foreign Office to the bank's loan agreement terms, the bank objecting to abolition of likin prior to conclusion of an agreement satisfactory to the bank for other security (893.51 Con-Ob-Continental/4).



893.51/5397 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, October 27, 1930—5 p. m.

368. Department's instruction 216, August 15.

1. The Department has received a letter from the bank in question<sup>58</sup> transmitting newspaper report that the Chinese Government has asked foreign ministers to send representatives to Nanking to discuss action in connection with defaulted obligations. The bank indicates its willingness to consider sending a representative if the American Minister should think this desirable.

2. Please report by telegraph whether note has been despatched in accordance with Department's instruction of August 15 and add comments on subjects mentioned above.

STIMSON

893.51/5411 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 31, 1930—3 p. m.

[Received October 31—9:30 a. m.]

948. Department's 368, October 27, 5 p. m.

1. Note in question was despatched to Nanking September 16th and copy forwarded to Department.<sup>58</sup>

2. Postponement of conference until November 15th was reported to the Department in the Legation's 875, October 2, 8 p. m.<sup>58</sup> Consulates in China were notified by telegram on October 7th and were instructed to inform American creditors in their districts. I am requesting Adams<sup>59</sup> to obtain any further information regarding the conference.

3. Even should the Chinese Government be in a position on November 15th to hold a genuine and comprehensive conference on this subject, I should have little hope of it being possible to achieve any results of value. I cannot, however, assume responsibility of advising against any creditor being represented on that date. I shall myself plan to attend opening of conference receiving any proposals made. My interested colleagues appear to have no definite information regarding conference.

JOHNSON

<sup>58</sup> Not printed.<sup>59</sup> Walter A. Adams, Consul at Nanking.

493.11/1536

*The Secretary of State to the Minister in China (Johnson)*

No. 306

WASHINGTON, November 11, 1930.

SIR: The Department has received the Legation's despatch No. 479 of September 23, 1930,<sup>60</sup> in regard to the substantiation of American losses at interior points in China arising from bandit and similar activities resulting in the looting of American property in the hands of native agents.

In reply to the Legation's request for the Department's views concerning the adequacy and feasibility of substantiating these losses by the statements of reputable Chinese firms, inasmuch as the Chinese Chambers of Commerce<sup>61</sup> have been forbidden to substantiate such losses, the Department does not consider that it would be justified in making the definitive statement that such evidence will be sufficient in such cases. So far as the Department is presently concerned it would be disposed to accept such evidence as satisfactory proof of the losses but it could not give any assurances regarding the treatment of such evidence should the claims eventually be considered by an independent tribunal, such as a claims commission, or as to the weight that would be given to the evidence by the tribunal.

The Department will receive and consider any material evidence that is offered for the support of these claims and when examining the claims with a view to their discussion through diplomatic channels, it would be disposed to regard the evidence in question as the best evidence possible to produce in the circumstances.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

893.51 Contractual Obligations/1: Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 12, 1930—4 p. m.

[Received November 12—10 a. m.<sup>62</sup>]

981. Legation's 953,, November 2, 1 [3] p. m.<sup>60</sup>

1. Following from Minister Johnson at Shanghai:

"November 11, 9 a. m. Please communicate the following to the Department:

After conversations here with the Japanese, French [*Belgian?*] and British colleagues and with Arthur Young,<sup>63</sup> I believe that it is the

<sup>60</sup> Not printed.

<sup>61</sup> In Hupeh Province.

<sup>62</sup> Telegram in three sections.

<sup>63</sup> American financial adviser of the Chinese Government.

desire of the Minister of Finance to see each Minister separately on or about the 15th November and lay before him a plan for the funding of unsecured and inadequately secured loans and will say that China expects to be able to set aside from customs revenues a sum of money which will increase yearly and which will represent China's capacity to pay; this money is to be set aside each year for a period of 30 years and according to expectations will amount toward the end of that time to a considerable sum. The Minister of Finance will say that it will then be up to interested powers to agree among themselves as to each power's share of this money. When each power has received its proportion of the available money it will then on its own responsibility arrange with the creditors of its nationality as to how those creditors will be paid.

I am unable to ascertain whether this plan will be intended to cover claims for losses as well as claims due to defaulted contracts and material creditors although one source intimated that it would be expected of the Chinese that all of these claimants would be thus taken care of. Plan appears to be based on China's capacity to pay with constant reference to [Dawes?] plan but that [*sic*] whereas Dawes plan was based on revenues obtainable from taxation of German products such as sugar, beer and railways, this plan would be based entirely upon revenues derived from taxation of China's foreign and coast-wise trade all other revenues being left for use of Government. Japanese are primarily interested as the scheme will result in putting unsecured Nishihara loans in a position which they have not enjoyed hitherto. Plan will not help American claimants or material creditors who might otherwise expect payment in full when China becomes more prosperous through revival of trade and rehabilitation of railways. I shall probably not be able to obtain further information until I see Soong in Nanking on 15th."

## 2. Following from American Consul at Nanking:

"November 11, noon. The following is a literal translation of the Chinese text of a telegram from the Ministry of Foreign Affairs to Minister Johnson:

"Your telegram of October 31 has been noted. A note has now been received from the Ministry of Finance: "The creditors representatives conference which will be held in Nanking on the 15th instant states the first meeting will be held informally at which the Minister of Finance, representing the Chinese Government, will interview separately the delegates of the various governments. Further meetings will be participated in by the delegates of the respective governments of the creditors or by representatives nominated by the creditors to represent their respective governments at the discretion of the governments concerned. It is impossible to estimate at this time the duration of the conference but adjourning at an early date is expected." Seal of the Ministry of Foreign Affairs."

For the Minister:

PERKINS

893.51 Contractual Obligations/1 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, November 20, 1930—11 a. m.

397. Your 981, November 12, 4 p. m. The Department desires to have from the American Minister for immediate use concise statement regarding what transpired on November 15 in connection outstanding obligations of the Chinese Government.

STIMSON

893.51 Contractual Obligations/3 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 21, 1930—11 a. m.

[Received November 21—6 a. m.<sup>65</sup>]

997. Department's 397, November 20, 11 a. m. Following telegram from the Minister at Nanking, November 15, 4 p. m., was received by the Legation November 16th but was not repeated to the Department when, in reply [to] the Legation's inquiry, American Consul at Nanking stated telegram was sent to the Department November 15, 2 [4<sup>2</sup>] p. m.:<sup>66</sup>

"November 15, 4 p. m. From the Minister: At a meeting presided over by Dr. Wang Chung-hui<sup>67</sup> at 3 p. m. today and attended by T. V. Soong, representing Chinese creditors, and representatives of Great Britain, Japan, France, Italy, Belgium and the Netherlands,<sup>68</sup> Dr. Wang on behalf of the Chinese Government presented the following memorandum:

'Confidential. Tentative [plan] without commitment.

(2) The Government considers that the sources, amount, and duration of its duly contracted obligations that are now in arrears.

(2) The Government considers that the sources, amount, and duration of payments to be made by China should first be discussed.

(3) The Government considers that payments should be made from two sources, namely, customs revenue and railway revenue, excepting that payments on the Anglo-French and Crisp loans and a contribution for service of the Hukuang loan would continue to be made out of salt revenue[s].

(4) The Government is prepared to set aside from the customs revenue certain annuities amount of which would be gradually increased. Specific figures will be presented [*proposed*] after reaching agreement with respect [to the] proposals herein outlined.

(5) Railway debts that can reasonably be carried by the respective railways after measures of rehabilitation and restoration have been taken would be paid out of railway earnings, but, in order to relieve railways of part of their present heavy burden of debt, a portion of sums paid from customs revenue would be used for railway debts.

<sup>65</sup> Telegram in four sections.

<sup>66</sup> Apparently not sent to Department.

<sup>67</sup> Chairman of Chinese commission for the consolidation of China's indebtedness.

<sup>68</sup> Minister Johnson also was present for the United States.

(6) Similarly, a portion of sums paid from customs revenue would be made available in respect [of] communications debts (other than railway debts) in arrears.

(7) Procedure for the distribution of the sums to be paid out of customs revenue will be presented [*proposed*] after agreement is made [*has been reached*] in principle concerning proposals made in this memorandum.

(8) The Government would be prepared to issue bonds based upon above-mentioned sums set aside out of customs revenue.

(9) Paying [*The payments*] out of customs revenue would be subject to priority of a reserved charge to be used for purposes of rehabilitation.

(10) Payments from the customs revenue would be terminated by 1960.

Subsequently the following statement was issued to the press by the Chinese Government:

'An informal conference was held today between representatives of China and the Governments of (list follows) for the purpose of initiating discussions of the adjustment of China's foreign and domestic obligations that are in arrears. Discussions centered upon the procedure to be adopted for reaching a settlement. A spokesman for the Chinese representatives, interviewed by the Kuo Min News Agency, stated that the Government is desirous of making settlement that will be fair both to China and to the creditors, and that it is hoped that the negotiations will lead to an early settlement of all duly contracted obligations. It was further made known [that] any settlement [negotiated] will be duly submitted for ratification by the National Government before becoming effective.'

In reply to questions, Dr. Wang stated that they would be ready to answer any questions that individual government representatives might have after they had studied the memorandum and that they desired lists from foreign governments of contractual obligations. I stated that I had not had sufficient knowledge upon which to seek instructions, that we were prepared to work sympathetically with the Chinese Government for the settlement of this question insofar as it affects us but that my Government would have to study the proposal very carefully before it could discuss the matter.

In the oral presentation of the memorandum and in the press statement, reference was made to domestic as well as foreign obligations although domestic contracted obligations are not mentioned in the memorandum.

Meeting adjourned sine die.

To assist me in any further discussions it will be necessary that the Department give me a complete list of contracted obligations due American creditors."

Minister now at Shanghai is being informed.

For the Minister:  
PERKINS

EXECUTION OF PROVISIONS OF THE HUKUANG RAILWAYS LOAN  
AGREEMENT OF MAY 20, 1911

893.77a/18 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 15, 1930—noon.

[Received October 15—6 a. m.]

905. 1. Following from American Consul General at Hankow:

"October 1, noon. F. W. W. Valpy, engineer in chief of the Hupeh-Hunan section of the Canton-Hankow Railway under the terms of the loan agreement with the group banks, dated May 21 [20], 1911, has been dismissed by order of the Ministry of Railways on the sole grounds of retrenchment in expenses. Valpy has declined to turn over office until arrears of pay for services amounting to \$36,429.76 are paid to him plus pounds sterling 100 for passage money to England."

2. American representative in Peiping has requested me to join with other interested Legations in making representations to the Chinese Government concerning the treatment of Valpy and the execution of the provisions of the loan agreement. It appears that in the letter of dismissal Valpy was informed "there is now no further necessity of employing a foreign engineer in chief for this work." British Minister has informed the French Minister and myself that he proposes to protest to the Minister of Foreign Affairs, pointing out that the Chinese action is contrary to article 17 of the Hukuang loan agreement of May 20, 1911. Lampson inquires whether I am disposed to address identic or similar representations.

3. Since Valpy is a British subject I am of the opinion that it would not be advisable for this Legation to join in representations with regard to the particular treatment accorded Valpy or the details of his claim but it is possible that the Department might regard it appropriate to protest with respect to that portion of article 17 which provides that the Chinese Government will continue to employ European and/or Americans as engineers in chief during the culmination [*currency*] of this loan. Department's instructions are requested.

JOHNSON

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893.77a/19 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, October 15, 1930—6 p. m.

351. Your 905, October 15, noon. Inasmuch as the appointment of a British engineer-in-chief for the Hupeh-Hunan section of the Canton-Hankow Railway is stipulated in Article 17 of the Hukuang Loan

Agreement of May 20, 1911, to which the American group is a party, you are authorized to join with the other interested Legations in making identic or similar representations to the Chinese Government concerning the execution of the provisions of the Loan Agreement with respect to the present incumbent as well as concerning the employment of European and/or American engineers-in-chief during the currency of the loan.

STIMSON

893.77a/22

*The Minister in China (Johnson) to the Secretary of State*

No. 746

PEIPING, January 20, 1931.

[Received February 25.]

SIR: Referring to the Department's telegram No. 351, of October 15, 6 p. m., concerning the dismissal of Mr. F. W. [W.] Valpy, Engineer-in-Chief of the Hupeh-Hunan Section of the Canton-Hankow Railway, I have the honor to enclose, for the Department's information, a copy of my note No. 173, of October 21, 1930,<sup>70</sup> concerning the matter, as well as a copy, in translation, of a reply from the Ministry of Foreign Affairs dated December 8, 1930,<sup>70</sup> quoting the Ministry of Railways to the effect that the dismissal of Mr. Valpy does not contravene the terms of Article XVII of the Hukuang Loan Agreement of May 20, 1911, that the Ministry will employ an appropriate person to succeed Mr. Valpy, and that the former Engineer-in-Chief has been instructed to apply to the Ministry of Finance for the settlement of his claim.

Respectfully yours,

NELSON TRUSLER JOHNSON

#### PROTECTION OF AMERICAN PATENT RIGHTS IN CHINA

893.542/33: Telegram

*The Acting Secretary of State to the Minister in China (MacMurray)*

WASHINGTON, November 16, 1929—5 p. m.

376. Referring to Nanking despatch No. D28 of October 7<sup>70</sup> regarding Chinese patent law promulgated June 18, 1928, Department believes that it would be well to call attention of Chinese Government to fact that this patent law fails to provide a method of according protection in China to United States patent rights issued to American citizens, and to express the hope that the National Government will at an early date take steps to remedy this situation with a view to

<sup>70</sup> Not printed.

according to citizens of the United States protection of their patent rights in China similar to that which is accorded to Chinese citizens in the United States, as provided in Article X of the treaty of 1903 between the United States and China.<sup>71</sup> Please keep Department informed of developments.

COTTON

893.542/34 : Telegram

*The Minister in China (MacMurray) to the Secretary of State*

PEIPING, November 20, 1929—11 p. m.

[Received November 21—6 a. m.]

1019. Your 376, November 16, 5 p. m. In connection with law mentioned I addressed, on October 16th, a note to the Minister of Industry, Commerce and Labor,<sup>72</sup> inviting attention to the fact that new law makes no provision for protection of American patents in China on the basis of the reciprocal treatment specified in article 10 of the 1903 treaty, and requested information as to the procedure which Americans should follow in order to obtain for their patents the protection in China provided by that treaty in order to establish reciprocity in the matter. In his reply Dr. Kung states, with reference to the law promulgated on June 18th, 1928:

"These regulations constitute a temporary procedure for promoting domestic industries and are neither a new medium nor a patent law. As regards the universal patent rights, this Ministry is collecting the established rules of the several countries for deliberation and adoption in the proposed enactment of such a law in order that a bureau may be established to carry it out."

In view of this, does the Department desire further representations made at this time?

MACMURRAY

893.542/34 : Telegram

*The Acting Secretary of State to the Chargé in China (Perkins)*

WASHINGTON, November 27, 1929—5 p. m.

393. Your 1019, November 20, 11 p. m. Communication of Minister Kung gives no assurance that American patent rights will be safeguarded pending enactment of law governing foreign patent rights. On the contrary, in the provisional regulations the Chinese Government definitely encourages the Chinese people to "adopt and apply foreign methods of manufacture" and provides machinery for the issuance of patent certificates, these patent registration facilities being

<sup>71</sup> Signed at Shanghai, October 8, 1903; *Foreign Relations*, 1903, p. 91.

<sup>72</sup> Not printed.



available to Chinese citizens only. The Legation should accordingly address a formal communication to the Chinese Government referring to Minister Kung's reply and stating that since existing regulations (see Article 1 of detailed regulations, page 4 of enclosure to Nanking's despatch No. D-23 of September 3, 1929 to the Department<sup>73</sup>) definitely exclude foreigners from registering patents, the American Government requests the Chinese Government's definite assurances that, pending the promulgation of Chinese laws regarding the protection of patent rights of foreigners, the patent rights of American citizens shall in no wise be infringed by any official acts taken by the Chinese Government under the existing regulations.

The Legation is authorized to make such alterations in or additions to this suggested communication as appear advisable.

COTTON

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893.542/39 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, February 15, 1930—1 p. m.

[Received 1:05 p. m.<sup>74</sup>]

129. Department's 393, November 27, 5 p. m.; and Legation's mail despatch No. 2459 [2457], of December 4th.<sup>75</sup>

Ministry of Foreign Affairs has replied in a note, dated February 6th, quoting a statement of the Ministry of Industry, Commerce and Labor which reads as follows:

"The provisional regulations for the encouragement of industrial products were especially fixed for the encouragement of native industrial talent and are only of a temporary nature. They are by no means patent laws and regulations. In this connection it may be pointed out that article 20 of the said regulations specifies that after the promulgation of patent laws the regulations will be abolished. Furthermore, paragraph 2 of article No. 15 of the said regulations provides that no one who in selling and shipping foreign goods falsely represents them to be of his own manufacture can obtain sole rights in connection therewith; hence there is nothing in these regulations to injure foreign products."

While I do not consider that this reply gives in any sense the assurances desired I am doubtful of the value of making any further representations at this time; and I shall accordingly refrain from so doing unless otherwise directed by the Department.

JOHNSON

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<sup>73</sup> Not printed.

<sup>74</sup> Telegram in two sections.

<sup>75</sup> Latter not printed.

893.542/39 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, February 25, 1930—6 p. m.

74. Your 129, February 15, 1 p. m., last paragraph.

1. The Legation will observe that Article XX of the Regulations for the Promotion of Industrial Manufactures provides that all rights acquired by Chinese citizens thereunder shall continue under future Chinese patent laws. Apparently this would permit provisional registrations infringing American patents and the continuance of such registrations in permanent form under future patent laws.

2. In order to safeguard the rights of American patent holders, the Department suggests, subject to your discretion, that it would be desirable that the Legation inform the Chinese Government, in reply to the latter's note dated February 6, that the American Government reserves on behalf of American citizens all rights in relation to patents accruing to such citizens from Article X of the American-Chinese Treaty of 1903 and other relevant treaty provisions.

COTTON

893.542/40

*The Minister in China (Johnson) to the Secretary of State*

No. 105

PEIPING, March 24, 1930.

[Received April 23.]

SIR: With reference to the Department's telegram No. 74, of February 25, 6 p. m., I have the honor to state that I have deferred making the reservation therein outlined pending the outcome of a specific test of good faith, made in connection with the rights of the Claude Neon Lights, Incorporated.

There are transmitted herewith, for the Department's information, a copy of despatch No. 6297, of December 9, 1929, from the American Consul General at Shanghai, which sets forth in detail the complaint of the American firm concerned, a copy of a note addressed by the Legation to the Ministry of Foreign Affairs on March 18, and a copy of an instruction to Shanghai of March 24, 1930.<sup>76</sup>

The Department will be promptly apprised of the results of the Legation's representations in the matter.<sup>77</sup>

I have [etc.]

NELSON TRUSLER JOHNSON

<sup>76</sup> None printed.<sup>77</sup> On October 18, 1932, the Minister in China was sent general and specific instructions in regard to protection of American patent rights in China (893.542/44).

PROTECTION OF AMERICAN PROPERTY SOLD ON AN INSTALLMENT-  
PAYING PLAN UNDER CONDITIONAL SALE CONTRACTS

393.1141/1

*The Minister in China (Johnson) to the Consul at Tsingtao (Dorsey)*<sup>78</sup>

PEIPING, February 25, 1930.

SIR: The Legation has received your despatch No. 369, of January 24, 1930,<sup>79</sup> regarding diplomatic protection for property disposed of under conditional sale contracts. You point out that, from the nature of such contracts, the purchase being made by the payment of a small initial sum and of the balance of the purchase price in such monthly instalments as may be agreed upon, the actual American interest in the car passes through cycles of importance, giving way to and being gradually absorbed by that of the Chinese buyer as later instalments are paid, and you inquire as to the degree of American financial interest which would entitle the American seller to diplomatic intervention in his behalf. The Legation transmits herewith for your information and guidance a copy of despatch No. 1719, of April 17, 1928, from the American Consul at Harbin,<sup>79</sup> and of the Legation's instruction in reply of April 28, 1928,<sup>79</sup> and of the Department's instruction to the Legation, No. 939, of August 1, 1928. Your attention is particularly invited to the Department's statement on page 2 of its instruction mentioned above to the effect that "the principle of the conditional sale contract is well recognized in American law and the Department is unable to concur in a general ruling which in effect would deny protection to an undoubted American legal right."

The Legation is to-day transmitting a copy of your despatch under reply and of its instruction to the Department for a ruling as to the extent of American interest necessary in order to warrant diplomatic intervention in the case of American property sold by instalments to Chinese.

I am [etc.]

For the Minister:  
MAHLON F. PERKINS  
*Counselor of Legation*

[Enclosure]

*The Secretary of State to the Minister in China (MacMurray)*

No. 939

WASHINGTON, August 1, 1928.

SIR: The Department has received a copy of despatch No. 1719, dated April 17, 1928, from the Consul at Harbin, together with a copy of the Legation's reply of April 28, 1928, concerning the seizure and

<sup>78</sup> Copy transmitted to the Department by the Counselor of Legation in China in his despatch No. 41, February 25, 1930; received March 28.

<sup>79</sup> Not printed.

sale by the Harbin police authorities of two motor cars which had been sold by Messrs. Bashkiroff and Company, an American concern, to a Russian national, the title in the cars remaining in the American vendor because final payment had not been made.

The Legation expresses the opinion that the Consul should not have interposed in the matter, as the seized cars had been used in the commission of a crime.

In Mr. Hanson's despatch reporting the seizure of the cars, he states "There is no doubt but that one of the cars in the case was used in committing a very daring highway robbery. The Chinese police claim that the two cars were used". This statement implies that while the Consul was satisfied that one of the cars had been used in the perpetration of an illegal act, he does not admit that the second car was involved. It would seem that this may have some bearing on the point upon which the Legation has taken exception to the action taken by the Consul. The rights of the interested American firm may differ in respect to the two cars.

In the instruction under consideration, the Legation has not confined its ruling to the case in point, but has outlined a general position to be taken with respect to the granting of extraterritorial protection to American importers of motor cars. The Legation intimates that supervision over the uses to which a car is put and physical possession of the vehicle are a *sine qua non* to protection. This theory of protection is much more restricted than the Department is inclined to entertain. As the Legation is aware, American business in China is conducted to a considerable extent upon the basis of delivering physical possession of an American commodity to the vendee, but retaining title with the vendor until final payment. The principle of the conditional sale contract is well recognized in American law and the Department is unable to concur in a general ruling which in effect would deny protection to an undoubted American legal right. There may be particular circumstances in an individual case which will render it advisable to withhold the protection of the executive branch of the Government, but the decision to withhold protection should be made as each instance arises and in view of all the pertinent particulars.

In the case in question, the Department is inclined to the opinion that the Consul acted properly in making representations. The Consul's action drew from the Chinese a statement in explanation and defense of their action. If that statement is accepted, the Department considers that the American firm can have no reasonable ground for complaint if neither the Consul nor the Legation chooses to make further representations; the proper course for the firm would seem to be, if it chooses to risk it, an action in law.

I am [etc.]

For the Secretary of State:  
NELSON TRUSLER JOHNSON

393.1141/1

*The Secretary of State to the Minister in China (Johnson)*

No. 324

WASHINGTON, December 3, 1930.

SIR: The Department refers to the Legation's despatch No. 41 of February 25, 1930,<sup>80</sup> in which the Legation asked for a ruling from the Department regarding the extent of American interest necessary in order to warrant diplomatic intervention in the case of American property sold to Chinese on an installment payment plan.

The Department did not at once reply to the despatch under reference, since it was felt that the Department's instruction No. 939 of August 1, 1928, gave sufficient information regarding the Department's views for the guidance of the Legation in dealing with transactions of the sort indicated.

The Department having again given its consideration to the point raised by the Legation is of the opinion that American consular officers would, in general, be warranted in extending assistance to an American seller at any time during the period of installment payments, that is, until the title in the article sold passes to the purchaser. The Department believes that it would be unwise at this time to attempt to add to this general statement and to the discussion of the subject found in the Department's instruction No. 939 of August 1, 1928, anything in the nature of precise instructions for the guidance of consular officers.

Very truly yours,

For the Secretary of State:

W. R. CASTLE, JR.

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**APPLICABILITY TO AMERICAN CITIZENS AND MILITARY FORCES IN CHINA OF CHINESE REGULATIONS GOVERNING IMPORTATION AND USE OF FIREARMS<sup>81</sup>**

893.113/1235 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, April 24, 1930—4 p. m.

[Received April 24—1:03 p. m.]

286. 1. The following telegram has been received from the Minister for Foreign Affairs:

"I have received the following reports: (1) That a Mr. Li has telegraphed to America from Hong Kong for the purchase of 6 military airplanes, and that 2 of them have already been shipped; (2) that Yen Hsi-shan recently purchased from Europe 40,000 rifles with ammunition which are being sent to the Krippendorff Company, an American firm at Tientsin,<sup>82</sup> for forwarding.

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<sup>80</sup> See footnote 78, p. 614.

<sup>81</sup> For correspondence relating to cancelation of the embargo on shipments of arms to China, see *Foreign Relations*, 1929, vol. II, pp. 523 ff.

<sup>82</sup> Known as America-China Export Import Co., Inc.

The purchase of the above-mentioned military materials has not been approved by the Central Government.

1. Please quickly telegraph your Government to prohibit the sale and shipment.

2. Please instruct the American Consul at Tientsin by telegraph to investigate and to stop the delivery of the goods.

A telegraphic reply would be appreciated."

2. I am replying to Wang that the text of his telegram is being repeated to the Department and that the American Consulate General at Tientsin is being instructed to investigate the report that the Krippendorff Company, an American firm at Tientsin, is concerned in the importation of arms and ammunition into China without the approval of the Central Government.

For the Minister:

PERKINS

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893.113/1236 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, April 28, 1930—6 p. m.

[Received April 28—9:15 a. m.]

293. Legation's 286, April 24, 4 p. m. With the Department's approval I propose to reply to the Ministry for Foreign Affairs in the following sense with regard to the report concerning the Krippendorff Company:

"The following information has been obtained from the American Consul General at Tientsin: 'H. F. Krippendorff is a German citizen. Henry W. Krippendorff is a naturalized American citizen but is no longer under the protection of the American Government since the presumption of expatriation has risen against him. Both these men are, however, part owners in the American-Chinese Export and Import Company, an American corporation established at Tientsin.'

The American Government does not exercise jurisdiction over these two individuals; but should this corporation attempt to smuggle contraband goods into China the American authority would be prepared to take appropriate action. Should, however, the corporation import such goods in a regular manner through *huchaus* issued by the Chinese customs it would not seem that the American authorities would be in a position to intervene in the matter."

It is my understanding that the custom[s] at Tientsin has in practice no alternative other than to recognize *huchaus* issued by the Superintendent of Customs who is a Yen Hsi-shan adherent. Although the Tientsin corporate interest [*customs?*] is subject in certain respects to the dictates of a regional government, I am informed that it preserves intact the local revenues for the Central Government.

For the Minister:

PERKINS

898.113/1236 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, May 2, 1930—6 p. m.

153. Your 293, April 28, 6 p. m.

1. The Department observes that the question of exercising by American authorities of jurisdiction over persons who have not claimed American citizenship or over naturalized American citizens who rest under the presumption of expatriation is a question for determination by appropriate judicial proceedings. In connection with the reported importation into China by American citizens or firms of arms contrary to the terms of the President's Proclamation of March 4, 1922,<sup>83</sup> you are referred to Department's instruction No. 937, July 30, 1928,<sup>84</sup> concerning sale of armored motor cars at Harbin, and telegram No. 327, October 5, 6 p. m., 1929,<sup>85</sup> concerning exportation of arms from the United States to China. See also Department's instruction of June 25, 1887, *Foreign Relations* that year, page 225, relating to importation into China of contraband, in that case opium.

2. Department desires that Legation substitute for its proposed reply to Chinese Ministry of Foreign Affairs a text substantially as follows:

"(Begin with reference to and quotation of entire telegram from Minister for Foreign Affairs.)

The Ministry requests that the American Government be asked to prohibit the sale and shipment of the airplanes referred to and that the American Consul at Tientsin be instructed to prevent the delivery of the rifles and ammunition referred to. In reply, with regard to the airplanes alleged to have been ordered, the Legation would state, first, that the information given is not sufficient to serve as a basis for investigation and, second, that it is believed that the Ministry is adequately informed with regard to the policy of the American Government in regulation of exports of military airplanes from the United States to China. With regard to the rifles and ammunition, the Legation notes that the Ministry states that these items have been purchased from Europe and are being sent to an American firm at Tientsin. The Ministry will realize that American authorities cannot act toward preventing a sale and shipment from a country other than the United States; while, with regard to preventing delivery to a consignee in China, the Legation would observe that administrative responsibility in connection with importation into China of contraband goods has long been understood to rest with the Chinese Maritime Customs Administration. If, in connection with an alleged importation of contraband goods, the Maritime Customs Administration has occasion and desire to bring a charge against an American firm in China, such charge may be and should be communicated to the American consular

<sup>83</sup> *Foreign Relations*, 1922, vol. I, p. 726.

<sup>84</sup> *Ibid.*, 1928, vol. II, p. 305.

<sup>85</sup> *Ibid.*, 1929, vol. II, p. 532.

official concerned, who is authorized, if a charge is brought, to take such measures as are lawful and appropriate."

STIMSON

893.113/1239 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 9, 1930—4 p. m.  
[Received May 9—4:04 p. m.<sup>86</sup>]

317. 1. On April 3rd Ministries [*Ministry?*] of Foreign Affairs wrote the Heads of Legation in China transmitting provisional regulations governing the issuance by the National Government of licenses for arms to be used for and by foreign travellers and residents in China with the request that their respective nationals be instructed to take note thereof. The regulations provide:

(1) Licenses must be applied for by all foreigners possessing guns including sporting guns when travelling or residing in any part of China.

(2) Foreigners must first obtain from nearest *hsien*, or municipal government, application forms giving name, nationality, occupation, make of arms, serial number and quantity of ammunition. Form must be countersigned by consul as guaranty and submitted with the arms for inspection with photographs and license fee to the appropriate *hsien*, or municipal government, for transmission to the provincial or special municipal government. Foreign diplomatic officials accredited to China shall apply through the Ministries [*Ministry?*] of Foreign Affairs to the Ministries [*Ministry?*] of Military Administration.

(3) Each license to cover one firearm only.

(4) Arms for self-defense limited to one firearm and 200 rounds of ammunition. Hunters to be allowed one extra sporting gun under separate license.

(5) Applicants would also submit 5 half-length photographs 2 inches square and fee of \$2. Diplomatic officials may be granted license without fee.

(6) No erasures or changes in licenses permitted nor are licenses transferable.

(7) Arms to be used for self-defense may only be employed in time of utmost danger when recourse to firearms is only means of self-defense.

(8) License must always be kept with arms and ammunition covered by it and must be exhibited for inspection whenever required by Chinese customs or barriers or by military or police, latter returned to bearer if found in order.

(9) If arms do not agree with license or if description of holder is at variance with photograph the weapons will be confiscated and license cancelled.

<sup>86</sup> Telegram in three sections.



(10) In case foreign bearer of such license violates these regulations or performs any other unlawful act in connection therewith local Chinese authorities may detain him together with the weapons submitting a report to their superiors for consideration and action.

(11) License not to be valid in district where travel is forbidden.

(12) License to be valid for one year only.

(13) Regulations to be effective from date of promulgation.

2. Similar regulations have been sent by the municipalities concerned to American Consular officers at Tientsin, Tsingtau, Tsinanfu, Shanghai, Canton, Chefoo and Foochow. The applicability to foreign nationals of these regulations is to be considered at next meeting of the diplomatic body.

3. Following telegram has been received from the Minister:

"May 7, 3 p. m. From the Minister: 'With reference to the Foreign Office's circular of April 3rd regarding firearms permits, I am in favor of bringing regulations to the attention of American citizens in China for their guidance. Please inform Department and colleagues.'"

For the Minister:

PERKINS

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893.113/1239 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, May 13, 1930—6 p. m.

165. Your 317, May 9, 4 p. m. Unless the Legation has already taken a different position at a meeting of the diplomatic representatives concerned, the Department desires that the Legation express there the opinion that the regulations cannot be considered applicable to American citizens at this time. Information received by the Department indicates that a large proportion of the local provincial authorities to whom power is given to enforce these regulations are not subject to any effective supervision by the Central authority and are themselves incapable of effectively guaranteeing protection to American citizens. Moreover, Department is unwilling to concede that such local or provincial authorities may rightfully be authorized to confiscate arms possessed by American citizens for self-defense unless arms have been illegally imported or to detain such American citizens while reports are being submitted to higher Chinese authorities. The Department believes that the Legation should inform the Chinese Foreign Office that the question of the applicability of the regulations to American citizens in China has been referred to the American Government and that, pending receipt of instructions, the regulations cannot be regarded as so applicable.

Department desires that you inform the American Minister by telegraph of these views and that the Department does not believe it advisable to transmit these regulations to American citizens in China for their guidance, since compliance with the regulations by American citizens would seem to constitute a recognition of the right of the Chinese Government, acting through the local and provincial authorities, to confiscate American property and to subject American citizens to detention without legal process.

STIMSON

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893.113/1244 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, May 21, 1930—2 p. m.

[Received May 21—9:05 a. m.]

353. Department's 165, May 13, 6 p. m. Following telegram has been received from the Minister:

"May 19, 5 p. m. I have informed the Foreign Office that regulations cannot be regarded as applicable pending receipt of instructions from the Department."<sup>87</sup>

For the Minister :

PERKINS

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893.113/1266 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 13, 1930—5 p. m.

[Received October 13—10 a. m.]

899. Department's 165, May 13, 6 p. m., and Legation's 353, May 21, 2 p. m.

1. Following from Shanghai:

"October 9, 5 p. m. Provisional regulations for issuance of certificates to carry firearms transmitted by Mayor, Shanghai, April 5th, 1930, provide that a guarantee bond shall be given by consul concerned. These certificates are required before a hunting permit can be obtained. Several Americans have requested Consulate General to give such bond. Am informed British Consulate is sealing and writing 'seen' on these bonds, charging fee therefor.

Does Legation object to my taking similar action?"

2. Does the Department approve following the British procedure?

JOHNSON

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<sup>87</sup> The Chinese Ministry for Foreign Affairs in a note dated May 23, 1930, informed the Minister in China of the promulgation of revised regulations, a copy of which was enclosed (893.113/1256).

893.113/1266 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, October 23, 1930—1 p. m.

362. Your 899, October 13, 5 p. m.

1. Department assumes that the "guarantee bond" is that entitled "Form of Application for Inspection, etc." attached to the Legation's despatch May 21, 1930.<sup>89</sup> In regard to hunting licenses, the Department notes that the Legation in 1929 instructed American consular officers to inform American citizens that it was considered desirable that applications for such licenses should be presented directly by the applicants to the Chinese authorities. It now appears that American citizens will be unable to obtain such licenses unless their applications are signed and sealed by an American consular officer. To meet this situation the Department authorizes American consular officers to write "seen" on and to sign and seal the aforesaid form of application for license to carry arms for purposes of self defense or hunting. No fee should be charged.

2. In each case the consular office concerned should make and retain in its files a copy and translation of the application concerned.

3. The Department desires, however, that the Legation and American consular officers shall carefully avoid any action which might be construed as an admission that American citizens are amenable to those features of the regulations which infringe upon their extra-territorial status.

STIMSON

893.113/1270 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 23, 1930—7 p. m.

[Received October 23—1:10 p. m.]

927. 1. Consulate General at Shanghai reports that on September 9, 1930, usual notification was sent to Superintendent of Customs regarding arrival of three cases of munitions consigned to the American Legation Guard. In reply Superintendent stated he had received a telegraphic instruction from the Minister of Finance on August 22, 1930, to the effect that in future foreign garrisons, legations and consulates, as well as municipalities of various concessions, should comply with National Government's revised regulations governing transportation permits for military use and apply for permits in conformity with these regulations. A copy of these regulations was forwarded to the Department without covering despatch June 19, 1930.<sup>89</sup>

<sup>89</sup> Not printed.

2. Consulate General reports that in this instance consignment in question has been passed by the customs without production of a permit on the ground that the regulations were not applicable to shipments already in transit but desires instructions as to the attitude which should be assumed in case permission to land or transship arms or munitions consigned to the American armed forces in China is refused on the ground that no permit has been obtained.

3. Article 11 of the regulations states that permits covering importations of firearms from a foreign country into China should be submitted to the Chinese Diplomatic Mission in the country of origin of the shipment for inspection and certification. The Legation does not perceive any particular objection to such procedure provided permits covering munitions consigned to United States armed forces in China are issued by Chinese Diplomatic Mission at Washington, gratis, and consignments are passed duty free by Chinese customs and other tax organizations. The Department's instructions are requested.

JOHNSON

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893.113/1270 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, October 28, 1930—2 p. m.

370. Your telegram 927, October 23, 7 p. m.

1. The Department desires that you address the following note to the Ministry of Foreign Affairs:

"I have the honor to acknowledge the receipt of your Excellency's note of May 23, 1930,<sup>90</sup> transmitting revised provisions of the regulations, et cetera.

"I have the honor to inform your Excellency that the note under acknowledgment and its enclosures were translated and referred to my Government. I am now instructed to inform your Excellency that it is the understanding of my Government that these regulations are not intended to apply to importations of military equipment and munitions designed for the use of the Governmental agencies of the American Government in China. I am instructed to add that my Government is thoroughly in accord with the desire of the Chinese Government to control the transportation of arms in order to prevent their falling into the hands of improper persons and suggests that every importation of military equipment and supplies, the property of and destined for the exclusive use of agencies of the American Government in China, shall be officially certified as such by the American Legation in China, the certificate thus issued to be utilized by

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<sup>90</sup> Not printed.

the Chinese Government as the basis for issuing the necessary import and transportation permits."

2. Unless you have comments to offer, the text should go as above or with only such changes or additions as may not be inconsistent with its general purport.

STIMSON

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898.113/1273 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 5, 1930—5 p. m.  
[Received November 5—10:55 a. m.<sup>91</sup>]

961. Department's 370, October 28, 2 p. m.

1. Legation has withheld note to Ministry of Foreign Affairs pending receipt of further information regarding procedure actually followed.

At Tientsin consignments of munitions and supplies for government agency are passed on presentation of import application bearing certificate of commanding officer that consignments are for the use of his forces. At Shanghai such consignments unloaded from United States Government transports or naval vessels do not have to pass customs. Commander in chief on October 28th instructed that shipments designated by units in China of arms and ammunition would be made only in publicly announced vessels of the United States.

2. As far as I can ascertain at the present time Japanese do not propose to follow the new Chinese regulations with regard to Government importations. British are endeavoring to effect a local settlement with the Chinese Superintendent of Customs at Shanghai. I have just been informed the French have in two cases obtained import of permits from Nanking but they are in a position to retaliate by delaying China's importation of arms into Yunnan.

3. Minister Johnson has wired from Tientsin suggesting that our note "simply state that as regards supplies for our Government forces we will be prepared to furnish information of shipments immediately upon arrival as in the past, avoiding any discussion of permit from Minister of War". With Department's approval Legation proposes to withhold reply to Nanking for the time being pending developments. Although Chinese regulations were issued some months ago I am informed that our October Army transport had no difficulty in landing its consignment to the 15th Infantry at Tientsin in accordance with usual procedure. It is generally believed that the new regulations are designed to create difficulties in the way of mainte-

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<sup>91</sup> Telegram in two sections.

nance of foreign troops in China with a view to expediting their withdrawal, especially in view of articles 7 and 9 of the Boxer protocol.<sup>92</sup> It would be advisable, as Minister Johnson suggests, to avoid action which would invite a discussion of the necessity of obtaining a permit from the Ministry of War.

For the Minister:  
PERKINS

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893.113/1273 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, November 7, 1930—3 p. m.

382. Your 961, November 5, 5 p. m. The Legation may follow its judgment in regard to method of seeking a satisfactory settlement of this question provided the arrangement ultimately agreed to shall involve no concessions to Chinese supervision greater than those indicated in the Department's telegram of October 28, 2 p. m. Keep Department informed.

STIMSON

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893.113/1277 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 30, 1930—9 a. m.

[Received November 30—5:55 a. m.]

1013. Department's 382 November 7, 3 p. m. Following from American Consul General at Shanghai:

"November 28, 9 a. m. Regarding importations military supplies for American naval and marine forces. I now learn orally that customs have received instructions issued by Ministry of Finance that such importations are henceforth to be governed by former procedure. Customs state they will now pass safely without production of Chinese Government permit. Have informed Navy purchasing office and headquarters marines."

For the Minister:  
PERKINS

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<sup>92</sup> Signed at Peking, September 7, 1901; *Foreign Relations*, 1901, Appendix (Affairs in China), p. 312.

CONTINUED NEGOTIATIONS CONCERNING THE FEDERAL TELEGRAPH COMPANY'S CONTRACT WITH THE CHINESE GOVERNMENT<sup>93</sup>

893.74/904 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, October 17, 1930—9 p. m.

355. Department's instruction September 25, 1929.<sup>94</sup>

1. The Department apparently has not been informed of any reply given by the Chinese Government to the note, draft of which was attached to the instruction in reference. Manton Davis of the Radio Corporation of America, acting for the Federal Telegraph Company of Delaware, has now orally requested that the American Minister again bring to the attention of the Chinese Government the substance of the draft note.

2. Referring to your memorandum of March 8 last,<sup>95</sup> reporting conversation with Barnes Moss, it would appear that the Chinese Minister for Foreign Affairs has been in consultation and correspondence with Moss as though he were the qualified representative of the Federal Telegraph Company of Delaware. Moss appears to have reported to Schwerin. Manton Davis has evidenced no knowledge of activities of Moss. Department has not informed Davis of your conversation with Moss. In your opinion, would there be any impropriety in now telling Davis of statements made to you by Moss? It seems possible that alleged offers received by Moss from the Chinese Minister for Foreign Affairs may have been prompted by the note from the Legation sent last autumn.<sup>96</sup>

3. Unless you see objections, please press the Chinese Minister for Foreign Affairs for reply to the Legation's representations.

STIMSON

893.74/905 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, October 27, 1930—10 a. m.

[Received 10:15 a. m.]

933. Department's 355, October 17, 9 p. m. I see no objection to your informing Davis of my conversation with Moss. I am urging Foreign Office to reply to the Legation's note of October 31, 1929.

JOHNSON

<sup>93</sup> Continued from *Foreign Relations*, 1929, vol. II, pp. 829-833.

<sup>94</sup> *Ibid.*, p. 829.

<sup>95</sup> Not printed.

<sup>96</sup> For note of October 31, 1929, see draft note to the Chinese Minister for Foreign Affairs from the American Minister in China, *Foreign Relations*, 1929, vol. II, p. 830.

893.74/913

*The Chinese Minister for Foreign Affairs (C. T. Wang) to the American Minister in China (Johnson)*<sup>97</sup>

[Translation]

No. L-197

[NANKING,] November 14, 1930.

SIR: I have the honor to acknowledge the receipt of your formal note (No. 180) of October 28, 1930, wherein you refer to Minister MacMurray's note of October 31, 1929, concerning the wireless contract of the Federal Telegraph Company of Delaware, and request an early reply for transmission to those concerned.

It appears from the records of the case that Minister MacMurray's note has been referred for consideration to the Ministry of Communications, which has replied as follows:

"Almost ten years have elapsed since the signing of this contract. In this period development and progress in the radio industry have been marvellously rapid and no comparison exists between conditions now and then. Since the radio station stipulated in the contract has not been constructed, the type specified, which is the arc-type, is altogether unsuitable for present use. Moreover, the Japanese Minister has been notified by this Government of the cancellation of the Japanese Mitsui wireless contract.

"The continued existence of the Federal contract cannot, in the light of all present conditions, be permitted, and I have the honor to request that the American Minister be so informed."

Having received the foregoing, I have the honor, Mr. Minister, to make this formal reply for your information.

WANG CHENG-T'ING

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ABROGATION BY CHINA OF FOREIGN CABLE AGREEMENTS AND  
NEGOTIATION OF NEW AGREEMENTS

893.74/889: Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 17, 1930—noon.

[Received January 19 (18<sup>th</sup>)—9: 55 a. m.]

57. My 56.<sup>98</sup> Following from American Consul at Nanking:

"January 15, midnight. Following is the translation of note dated January 14th from Ministry of Foreign Affairs:

"I have the honor to inform Your Excellency that I have received a despatch from the Ministry of Communications which reads as follows:

"On April 6th, 1905, the Chinese Telegraph Administration under the former Ching management authorized the Commercial Pacific Cable Com-

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<sup>97</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 672, December 15, 1930; received January 15, 1931.

<sup>98</sup> Dated January 17, 1930; not printed.



pany, an American concern, to lay a cable from Manila to the vicinity of Shanghai.<sup>99</sup> An agreement was signed by the two parties concerned and other documents relating to the matter were annexed.<sup>1</sup> It is now decided to abrogate this agreement and its accompanying documents as of January 1st, 20th year of the Chinese Republic (January 1st, 1931). Having notified the American company asking them to take preparatory steps to dispose of the matter, you are requested to inform the American Minister accordingly."

I have the honor therefore to indite this note for Your Excellency's information."

PERKINS

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811.7393 C 73/40 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, February 11, 1930—noon.

52. Legation's 57, January 17, noon. Commercial Pacific Cable Company informs Department it has been requested by Chinese Government to send a representative to China to negotiate renewal of landing rights in China for its cable. Company states it is sending William J. Deegan, Vice President, and Maynard Dodd, General Superintendent, to negotiate renewal. These men are due to arrive in Shanghai early in March. Please render them all appropriate assistance. Inform Shanghai. See Department's instruction of October 26, 1925.<sup>2</sup>

COTTON

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811.7393C73/46 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, November 25, 1930—10 p. m.

[Received November 26—9 : 30 a. m.]

1002. Following from the Minister at Shanghai :

"November 25, 9 a. m. For the Department: Commercial Pacific Cable Company has been negotiating with the Chinese Government for continuance of cable service after December 31 when present contracts will expire. Chinese are demanding as condition of operation of cable that terminus be placed under Chinese control. It is possible that Chinese will permit office to be managed by cable company, insist on supervision and complete control over relations of company with public, same conditions being demanded of other cable companies. Commercial Pacific Cable Company will approach Department within few days to inquire as to American Government's policy should Chinese

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<sup>99</sup> *Cable Landing Licenses*: Hearings before a subcommittee of the Senate Committee on Interstate Commerce, 66th Cong., 3d sess., on Senate Document 4301 (Washington, Government Printing Office, 1921), p. 396.

<sup>1</sup> See document signed August 23, 1906, *List of Contracts of American Nationals With the Chinese Government*, etc., annex 1, p. 3.

<sup>2</sup> Not printed.

Government after December 31st cut connection between cable and cable company's offices in International Settlement for the purpose of enforcing terms. I advised local representative to do this. I told him that I thought American Government would take the position that Chinese Government had the right to control cable in Chinese territorial waters and on Chinese territory and that there was nothing that the American Government could do other than to express the hope that cable company would not be discriminated against as compared with other similar services. I understand Danish and British Governments take same attitude. Cable company objects to Chinese control of relations with the public because this will enable Chinese to direct traffic to Chinese-owned and -operated radio circuits now in or about to come into operation."

For the Minister :  
PERKINS

811.7393C73/46 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

WASHINGTON, December 3, 1930—5 p. m.

416. Transmit to Minister : Legation's 1002, November 25, 10 p. m.

1. Goldhammer of Commercial Pacific Cable Company called at Department December 3 and discussed this question on basis of communications to company from its representative, Deegan, in China. Company will instruct Deegan to call on the Minister and describe arrangement which Commercial Cable has with the French Government and which Commercial Pacific apparently regards as working satisfactorily.

2. Department feels that it would be neither practicable nor advisable to object to Chinese Government control of cable in Chinese waters and on Chinese territory unless there should be discrimination against American company. The Minister should, however, confer with the Minister of Foreign Affairs and point out that the American Government would be gratified if the Chinese Government, with a view to encouraging all communications enterprises, would extend treatment not less liberal than that practiced by the American Government, namely, extending to cable companies the privilege of conducting relations freely with the public. If considered opportune, possibility of treatment similar to that accorded by France referred to above might be suggested.

STIMSON

811.7393C73/52

*Memorandum by the American Minister in China (Johnson) of a  
Conversation With the Chinese Minister for Foreign Affairs  
(C. T. Wang)*<sup>3</sup>

NANKING, December 5, 1930.

I saw Dr. Wang by appointment this morning and stated that I had come to bespeak on behalf of the Commercial Pacific Cable Company a sympathetic consideration of its desire to retain contact with the public in the matter of handling messages. I stated that I understood that this was the only matter now seriously in dispute and that the Company felt that it had made every concession possible by agreeing to submit to almost complete supervision and operation of the land end of the cable. I stated that at least the Chinese Government might adopt a policy in this matter that would accord reciprocal treatment to this American company, i. e. treatment similar to that in practice in France, especially as the United States granted to foreign cable companies operating with the United States the right to solicit for business.

N[ELSON] T[RUSLER] J[OHNSON]

811.7393C73/47: Telegram

*The Consul General at Shanghai (Jenkins) to the Secretary of State*

SHANGHAI, December 31, 1930—4 p. m.  
[Received January 2, 1931—2:10 p. m.]

Am just informed by representative Commercial Pacific Cable Company that an agreement was signed December 30th with Minister of Communications at Nanking for renewal of landing rights for 14 years from January 1st. Agreement provides for joint control of Shanghai office by company and the Chinese Telegraph Administration, but company retains control of operation of the cable. Company pays an increased rate to Chinese Government. Full details will be worked out later in a formal traffic agreement. Am informed representatives Great Northern and Eastern Extension Telegraph are signing similar agreements at Nanking today. Repeated to the Legation.

JENKINS

<sup>3</sup> Copy transmitted to the Department by the Minister in China in his despatch No. 687, December 19, 1930; received January 28, 1931.

## ISSUANCE BY CHINA OF EXEQUATURS TO AMERICAN CONSULAR OFFICERS IN CHINA

122.352/48

*The Chargé in China (Perkins) to the Secretary of State*

No. 2462

PEIPING, December 5, 1929.  
[Received January 3, 1930.]

SIR: Referring to the Department's instruction No. 1366, of October 2, 1929,<sup>4</sup> directing this Legation to notify the Foreign Office of the assignments and the appointments of certain consular officers in China, I have the honor to transmit herewith a translation of a note dated September 23, 1929, from the Minister for Foreign Affairs<sup>4</sup> to the effect that in the future the Legation notify the Chinese Government of the appointment of consular officers in China and transmit commissions in order that the Foreign Office may issue exequaturs.

Inasmuch as this appears to be a radical departure from former procedure, and as a request for exequaturs might possibly weaken the position of our consular service in this country, I have withheld notification to the Foreign Office of the assignments and appointments of such officers named in the Department's above-cited instruction for whom the Legation had not previously requested recognition. Recognition has not been asked for Messrs. Dorsey, Stanton, Bonbright, Graves, Coudray, Staten, James, Brennan, and Sundell.

It appears that other Legations in Peiping have received similar communications from the Minister for Foreign Affairs relative to the issuance of exequaturs, and I understand that the Japanese Legation will probably ignore the matter completely. The British Legation has informed the Chinese authorities that the matter has been referred to London.

I shall be grateful if the Department will instruct me as to whether, in the future, commissions of consular officers should be transmitted to the Chinese Minister for Foreign Affairs with the request that exequaturs be issued. Instructions are also requested as to what action should be taken in regard to the officers aforementioned. I venture to request a reply by naval radio.

I have [etc.]

MAHLON F. PERKINS

122.352/48 : Telegram

*The Acting Secretary of State to the Chargé in China (Perkins)*

WASHINGTON, January 20, 1930—6 p. m.

23. Your despatch 2462, December 5. The Department is inclined to consider favorably the requests of the Chinese Government con-

<sup>4</sup> Not printed.

tained in its note of September 23 last.<sup>6</sup> However, the Department recognizes that disadvantages might readily ensue from compliance with these requests and before coming to a definite decision the Department desires that you endeavor to obtain additional information regarding the views held and position likely to be taken by the other Governments most concerned. You are authorized to intimate to your colleagues in your discretion that this Government is not aware of convincing objections from a technical standpoint that could be made to the Chinese Government's requests in this connection. Reply by telegraph.

COTTON

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122.352/49 : Telegram

*The Chargé in China (Perkins) to the Secretary of State*

PEIPING, January 31, 1930—4 p. m.  
[Received January 31—9:03 a. m.]

97. Your 23, January 20, 6 p. m. The British, French and Japanese Legations have referred the changes to their home Governments; we are informed the French Legation realizes disadvantages in requesting exequaturs but knows of no technical objection inasmuch as the Chinese Government passes upon the acceptability of chiefs of mission.

For the Chargé d'Affaires ad interim:

HEWES

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122.352/51 : Telegram

*The Acting Secretary of State to the Minister in China (Johnson)*

WASHINGTON, March 12, 1930—11 a. m.

91. Your 189, March 11, 3 p. m.<sup>6</sup> Department refers to its telegram 23, January 20, 6 p. m.

Provided the Governments mentioned in Legation's telegram 97 of January 31, 4 p. m., adopt same procedure, you are authorized to transmit to the Chinese Foreign Office the commissions of the American consular officers mentioned in your 2462, December 5, and to request exequaturs.

COTTON

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<sup>6</sup> Not printed.

122.352/55

*The Secretary of State to the Minister in China (Johnson)*

No. 124

WASHINGTON, May 27, 1930.

SIR: The Department has received your despatch No. 135 dated April 8, 1930, transmitting a memorandum of your conversation with the British Minister on March 26, 1930,<sup>7</sup> regarding the proposal of the Chinese Government that henceforth requests be made for the issuance of exequaturs to consular officers in China. Note has been taken of your statement to the British Minister that in your view the question of exequaturs should remain to be settled when a new commercial treaty with China is negotiated and that in the meantime the procedure should be as in the past, viz., to notify the Chinese authorities of the appointment of American consular officers. You stated further, that, if the question of exequaturs were to be raised again by the Chinese Ministry of Foreign Affairs, you would favor making a reply to the effect that this question would have to be settled in the course of treaty negotiations.

The Department concurs in your views on this subject as set forth above and authorizes you to proceed in accordance therewith, keeping in mind, however, the Department's previous instructions on this subject and keeping the Department fully informed of any developments that may occur.

I am [etc.]

For the Secretary of State:  
FRANCIS WHITE

122.352/57

*The Minister in China (Johnson) to the Secretary of State*

No. 470

PEIPING, September 18, 1930.

[Received October 22.]

SIR: Referring to the Department's instruction No. 124, of May 27, 1930, and to previous correspondence with respect to the proposal of the Chinese Government that henceforth requests be made for the issuance of exequaturs to consular officers in China, I have the honor to inform the Department that, in accordance with this instruction, the Legation has continued to follow its former procedure of merely notifying the Chinese authorities of the appointment of American consular officers. Although the Legation has completely ignored the receipt of foreign office note No. L-801, of September 23, 1929,<sup>8</sup> a copy of which was forwarded to the Department with the Legation's despatch No. 2462 of December 5, 1929, the Ministry of Foreign Affairs,

<sup>7</sup> Neither printed.<sup>8</sup> Not printed.

of its own accord, has forwarded to the Legation exequaturs for Messrs. Myers, Stevens, Meinhardt, and Ballantine, with covering notes. There is enclosed herewith a copy of my note No. 118, July 23, 1930,<sup>9</sup> as well as a copy, in translation, of Foreign Office note No. L-137, August 14, 1930, with respect to the assignment of Mr. Joseph W. Ballantine as Consul General at Canton. The Department will observe that in forwarding Mr. Ballantine's exequatur the Minister for Foreign Affairs states that "I have not failed to note the above, and have submitted a request to the Chairman of the National Government for the issuance of an exequatur for the above-named Consul General in order to enable him to perform his duties."

Pending further instructions from the Department upon the matter, the Legation will refrain from acknowledging the receipt of these exequaturs, which will be retained in the files of the Legation.

Respectfully yours,

For the Minister:  
MAHLON F. PERKINS  
*Counselor of Legation*

[Enclosure—Translation]

*The Chinese Minister for Foreign Affairs (C. T. Wang) to the American Minister (Johnson)*

L-137

SIR: I have the honor to acknowledge the receipt of your formal note (No. 118, July 23, 1930)<sup>9</sup> stating that Mr. Joseph W. Ballantine has been assigned as Consul General at Canton, and requesting that the appropriate authorities be instructed to receive him in accordance with precedent.

I have not failed to note the above, and have submitted a request to the Chairman of the National Government for the issuance of an exequatur for the above-named Consul General in order to enable him to perform his duties.

Aside from having notified by note the competent local authorities to receive him in accordance with precedent, I have the honor, Mr. Minister, to enclose herewith an exequatur for transmission.<sup>9</sup>

WANG CHENG-T'ING

[NANKING,] August 14, 1930.

122.352/57

*The Secretary of State to the Minister in China (Johnson)*

No. 338

WASHINGTON, December 17, 1930.

SIR: The Department refers to your despatch No. 470, September 18, 1930, in regard to the issuance by the Chinese Government of

<sup>9</sup> Not printed.

exequaturs to American consular officers in China, in which it is stated that, pending further instructions from the Department, no acknowledgment of the receipt of such exequaturs will be made by the Legation.

The Department concurs in this decision of the Legation, believing that for the time being it will be better to follow such procedure until some particular occasion arises when the Chinese Government refuses to recognize the official capacity of an American consular officer in China. The Department has already stated in its telegram to the Legation, No. 23, January 20, 1930, 6 p. m., that it is not aware of any convincing objections from a technical standpoint which can be raised against the procedure outlined in the note of September 23, 1929, from the Minister of Foreign Affairs to the American Minister.<sup>10</sup> This procedure does not appear to be in conflict with that provided for in the last paragraph of Article II of the Sino-American Treaty of 1903.<sup>11</sup>

It is also to be noted that the treaty provision between China and the United States in respect to the appointment of consular officers is somewhat different from those found in the treaties of the other powers which still enjoy extraterritorial jurisdiction in China. The British,<sup>12</sup> French<sup>13</sup> and Dutch<sup>14</sup> treaties are not so specific in regard to exequaturs as is the treaty of 1903 of the United States, or the treaty of 1881 of Brazil,<sup>15</sup> the last-named treaty going so far as to permit the Chinese Government to revoke an exequatur, if the consular officer conducts himself in any illegal manner. The treaty position of the American Government in this respect is such as to prevent it from acting in complete accord with certain of the other extraterritorial powers if those powers should deny the right of the Chinese authorities to insist upon the issuing of exequaturs to consular officers as a necessary condition to their functioning in China.

If, however, the Chinese authorities, after due notice to them as provided for in the final paragraph of Article II of the Sino-American Treaty of 1903, refuse to recognize the official capacity of an American consular officer in China, the Department desires to be informed immediately by telegraph of the circumstances and of the Legation's views in the matter.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

<sup>10</sup> Not printed.

<sup>11</sup> Signed at Shanghai, October 8, 1903; *Foreign Relations*, 1903, p. 91.

<sup>12</sup> Signed at Tientsin, June 26, 1858; see art. VII, *British and Foreign State Papers*, vol. XLVIII, pp. 47, 49.

<sup>13</sup> Signed June 27, 1858; see art. V, *ibid.*, vol. LI, pp. 637, 639.

<sup>14</sup> Signed at Tientsin, October 6, 1863; see art. I, *ibid.*, vol. LX, p. 766.

<sup>15</sup> Signed at Tientsin, October 3, 1881; see art. III, *ibid.*, vol. LXXII, pp. 560, 561.



RECIPROCAL ARRANGEMENT BETWEEN THE UNITED STATES AND  
CHINA ACCORDING THE FREE IMPORTATION PRIVILEGE TO CON-  
SULAR OFFICERS AND THEIR FAMILIES

693.11241/38

*The Secretary of State to the Chinese Chargé (Yung Kwai)*

WASHINGTON, September 29, 1930.

SIR: Reference is made to Article D, Part I, of the Procedure for the Exemption from Duty of Articles for the Use of Diplomatic, Consular, and Other Officers Stationed in China, which reads as follows:

"If any country has enacted regulations restricting the remission of duty or freedom of entry of articles for official or personal use carried by Chinese ambassadors, ministers, chargés d'affaires, officers of Chinese diplomatic missions, consuls, and trade commissioners abroad which differ from these, the official and personal effects of such country's diplomatic, consular and other officers in China shall be treated in accordance with the regulations of that country."

In reply to a note from the American Minister to China requesting an elucidation of Article D, the Chinese Minister for Foreign Affairs stated<sup>18</sup> that if the customs procedure of any country with respect to foreign diplomatic and consular officers be more favorable than that of China the Chinese Government will reciprocate. This Government desires that American consular officers assigned to China be accorded the free importation privilege during their official residence, and after consultation with the appropriate authorities of this Government I have pleasure in informing you that, in addition to the free entry of baggage and effects upon arrival and return to their posts in this country after visits abroad which Chinese consular officers assigned to the United States already enjoy, effective at once, upon the request of the Chinese Legation in each instance, this Department will arrange for the free entry of articles imported for personal use during their official residence in the United States by Chinese consular officers who are Chinese nationals and not engaged in any other business, and their families, with the understanding that no article the importation of which is prohibited by the laws of the United States shall be imported by them.

Accept [etc.]

For the Secretary of State:  
W. R. CASTLE, JR.

<sup>18</sup> Under date of August 31, 1929; statement not printed.

693.11241/46

*The Chinese Minister (C. C. Wu) to the Secretary of State*

WASHINGTON, December 16, 1930.

SIR: Referring to previous correspondence concerning a reciprocal arrangement for according to American consular officers in China and Chinese Consular officers in the United States the free importation privilege during their official residence, I have the honor to inform you under instructions from my Government that my Government is in complete accord with the American Government on the subject and that in consideration of similar privilege being accorded to Chinese consular officers in the United States instructions have been issued to the appropriate authorities at the various ports in China to admit to free entry articles imported for personal use during their official residence in China by American consular officers who are American nationals and not engaged in any other business, and their families, upon the request of the American Legation in each instance, with the understanding that no article the importation of which is prohibited by Chinese laws shall be imported by them.

Accept [etc.]

CHAO-CHU WU

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DETENTION BY CHINESE CENSORSHIP OF AMERICAN CONSULAR  
CORRESPONDENCE

701.03/65

*The Consul at Foochow (Sokobin) to the Secretary of State*

No. 321

FOOCHOW, January 10, 1930.  
[Received February 6.]

SIR: I have the honor to enclose herewith a copy of a note which the Consular Body at this port addressed on January 8th to the Defence Commissioner, a local military official, protesting the action of a censor appointed by the Commissioner in detaining for seven hours telegrams despatched by the several consuls on January 7th, 1930, to their respective Legations at Peiping. Among the telegrams detained was one handed by this Consulate to the telegraph office at 10.30 a. m. on January 7th and which the censor detained until 5 p. m. of the same day.

The censor appeared without notice at the office of the telegraph company mentioned, accompanied by a guard, early on the morning of January 7th. The previous evening certain Chinese military effected a *coup d'etat* in Foochow, described in the enclosure of this Consulate's despatch No. 320 of January 7th, 1930 (File 800),<sup>17</sup> subject: *Coup d'etat* in Foochow; the action of the censor was a concomitant of the *coup*.

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The telegram sent by this Consulate was addressed to the American Legation, Peiping; it was in gray code and bore the impression of the Consulate's date stamp, as follows:

AMERICAN CONSULATE

Jan. 10 1930

Foochow, China

The telegram form was also signed by myself over the words "American Consul", in a space provided for signature. The message in fact briefly reported the arrest of several members of the Fukien Provincial Administrative Council, the constituted provincial governing authority.

The note sent by the Senior Consul was drafted by this office; the Department will recognize as a basis thereof the text used in Hyde's *International Law*, Vol. I, page 799. The Consulate ventures to hope that its action in joining in the protest is approved by the Department.

I have [etc.]

SAMUEL SOKOBIN

[Enclosure]

*The Japanese Consul General and Senior Consul at Foochow (Tamura) to the Chinese Defence Commissioner at Foochow (Lin Chung)*

FOOCHOW, January 8, 1930.

SIR: Acting on my own behalf as Japanese Consul General, and on behalf of my Colleagues of the Consular Body at this port, I have the honor to lodge a protest against the action of a censor, under your orders, in preventing the transmission of telegraphic messages over the lines of the Eastern Extension Australasia and China Telegraph Company, Ltd., sent by members of the Consular Body to their respective Legations at Peiping. Not until the censor was ordered to leave the premises of the telegraph company by H. B. M. Consul, did the messages go forward, after a detention of seven hours.

Under international law a consular officer has the right of free communication with his own government and with the diplomatic and consular representatives of his government stationed in the same territory; the consular officer may use the post or telegraph and he may send his messages in cipher. The detention of an official communication from a consular officer to his Legation is a violation of international law and in order that a similar occurrence may not again happen, I have the honor to request that you take special note of this protest and that you give the Consular Body an assurance that official communications despatched by members of the Consular Body will not in the future be interfered with in any way, and that such communica-

tions will be given the due respect they are entitled to under international law.

I have [etc.]

TEIJIRO TAMURA

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701.03/65

*The Acting Secretary of State to the Minister in China (Johnson)*

No. 91

WASHINGTON, April 23, 1930.

SIR: The Department has received from the American Consul at Foochow his despatch No. 321, of January 10, 1930, reporting the detention by a Chinese censor of a telegram despatched by the Consul to the American Legation at Peiping. Copies of this despatch are believed to have been sent to the Legation.

It will be noted that the communication of January 8, 1930, addressed by the Japanese Consul General and Senior Consul to the Chinese Defence Commissioner at Foochow, was drafted by the American Consulate. It is requested that the Legation inform the American Consulate at Foochow that the Department concurs in the view that

"Under international law a consular officer has the right of free communication with his own government and with the diplomatic and consular representatives of his government stationed in the same territory; the consular officer may use the post or telegraph and he may send his messages in cipher."

The sentence quoted is to be found in the second paragraph of the communication of January 8, 1930, already referred to. The Department approves the action taken by the American Consul at Foochow in participating in this joint protest to the Chinese authorities as set forth in the latter part of the same paragraph.

I am [etc.]

For the Acting Secretary of State:  
FRANCIS WHITE

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ATTITUDE OF THE DEPARTMENT OF STATE TOWARD A PROPOSED  
CONFERENCE TO CONSIDER THE SILVER SITUATION

551.5 F 1/103

*The Secretary of State to President Hoover*

WASHINGTON, November 15, 1930.

MY DEAR MR. PRESIDENT: I have your letter of the thirteenth<sup>18</sup> enclosing a letter from Under Secretary Mills<sup>19</sup> on the silver matter, which I return herewith.

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<sup>18</sup> Not printed.

<sup>19</sup> Ogden L. Mills, Under Secretary of the Treasury; no copy of letter found in Department files.

I am in entire agreement with Mr. Mills in his judgment that any agreement for silver purchases is unwise. As to the first suggestion of an international agreement of the governments not to sell silver, I should think the effect of such an agreement if reached would be beneficial to American mining interests both in this country and abroad and in Mexico, nor do I see any harm in it. Such an agreement to have binding force in this country would have to be referred to Congress for approval.

I am not optimistic as to the willingness of those countries which are the largest factors in the silver situation as consumers or importers, such as India or China, to make a firm agreement in the matter, but I see no objection to the exploration of the subject.

Sincerely yours,

HENRY L. STIMSON

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551.5 F 1/8 : Telegram

*The Minister in China (Johnson) to the Secretary of State*

PEIPING, December 10, 1930—noon.

[Received December 10—12:37 a. m.]

1039. Following from the Minister, Nanking:

[Paraphrase.] "December 9, 5 p. m. Would the United States Government favorably receive a proposal from the Chinese Government that the United States call a conference, to be attended by silver-using countries, for the consideration of the silver situation? Is the Department of State able to inform me regarding its probable position respecting such a proposition prior to my departure, planned for December 15, for Peiping?" [End paraphrase.]

For the Minister:

PERKINS

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551.5 F 1/9 : Telegram

*The Secretary of State to the Minister in China (Johnson)*

[Paraphrase]

WASHINGTON, December 17, 1930—3 p. m.

434. For Minister Johnson: Your December 9, 5 p. m., to the Legation.

The indications are that such a proposal would not be favorably received.

STIMSON

## COLOMBIA

### GOOD OFFICES OF THE DEPARTMENT OF STATE IN SECURING SUSPENSION OF LIGHTERAGE CHARGES ON PRIVATELY OWNED LIGHTERS IN THE PORT OF BUENAVENTURA

821.1561/86

*W. R. Grace & Co. to the Acting Secretary of State*

NEW YORK, February 11, 1930.

[Received February 12.]

DEAR SIRs: Referring to the writer's conversation with Dr. Munro last week, we beg to call your attention to the serious situation which has arisen in the port of Buenaventura, Colombia, as a result of a resolution of the Custom Authorities imposing a tax of 25% on the tariff collected by all privately owned lighters in conveying cargo from ship to shore and shore to ship.

The Corporacion Maritima Colombiana, owned by us, owns<sup>1</sup> and operates 3000 tons of lighters and does about 40% of the total lighterage business of the port.

The other lighterage is owned and operated by the Hamburg-American Line (2000 tons), The Roland Line (2000 tons), the Customs House (4000 tons) and the Government owned railway (1500). The resolution does not apply to the lighters owned by the Custom House and the Railway although they engage in commercial lighterage in competition with privately owned lighters.

This creates a highly discriminatory situation which is very injurious to the business of the Corporacion Maritima Colombiana.

That Corporation appealed to the Minister of Treasury and Public Credit but without success.

We believe that the tax is illegal and yet we are reluctant to initiate proceedings in the Supreme Court except as a last resource.

I think the resolution is injurious to the general business of the country as well as to W. R. Grace & Co. and the Grace Steamship Co. The Grace Line and New Orleans & South American Steamship Co. were the first to establish direct service from New York and New Orleans to Buenaventura. The former is giving direct passenger as

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<sup>1</sup> In its letter of April 22, 1930, W. R. Grace & Co. stated that: "Our letter of February 11th was in error in stating that the lighters were owned by the Corporacion Maritima Colombiana; it merely operates them." (821.1561/90)

well as freight service. Corporacion Maritima Colombiana was the first to send lighters to Buenaventura to relieve the serious congestion obtaining there in 1926. We have done our utmost to improve the conditions in the port.

We enclose two copies of the petition of the Corporacion Maritima Colombiana and also two copies of a letter written by Mr. J. E. Zalles, Vice President of W. R. Grace & Co. to the Minister of Colombia at Washington<sup>2</sup> from which you will get a clear idea of the situation as it has already been presented to the Colombian Government.

We will greatly appreciate it if you could draw this situation to the attention of the American Minister at Bogota and we hope that he may be able to discuss it with the Colombian authorities in a way which will lead to some relief. We estimate the tax as costing Corporacion Maritima Colombiana about \$4,000. monthly.

If this matter can be forwarded to the Legation at Bogota by air mail we would greatly appreciate it as our Vice President, Mr. Zalles, will reach Bogota in about a week and it is his intention to take the matter up with the authorities and with the Minister at that time.

We enclose extra copies of the petition and the letter to the Colombian Minister in order that they may be conveniently forwarded with any instruction you may see fit to give to the Legation.

Respectfully,

W. R. GRACE & Co.  
R. H. PATCHIN  
*Vice President*

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821.1561/86 : Telegram

*The Acting Secretary of State to the Minister in Colombia (Caffery)*

WASHINGTON, February 13, 1930—7 p. m.

12. Grace & Company inform the Department that the customs authorities at Buenaventura have imposed a special tax on privately owned lighters at that port. Messrs. Zalles and Parmerton, representatives of the Company will arrive in Bogota shortly and will request your assistance in connection with this matter. You may take such informal action on their behalf as you consider proper and advisable. Mail instruction follows.<sup>3</sup>

COTTON

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<sup>2</sup> Enclosures not printed.

<sup>3</sup> Not printed.

821.1561/88

*The Minister in Colombia (Caffery) to the Acting Secretary of State*

No. 1056

BOGOTÁ, March 19, 1930.

[Received April 19.]

SIR: Referring to the Department's telegram No. 12 of February 13, and Instruction No. 131 of the same date,<sup>4</sup> regarding the difficulties of Grace and Company at Buenaventura over a tax imposed by the Colombian Government on their lighter service, I have the honor to report that I have taken up this matter informally with the Colombian authorities, who have promised me to endeavor to find a way to alleviate these charges.

The Minister of Foreign Affairs stated yesterday that he believed it would be possible at least to lighten the burden and possibly to take off the tax entirely temporarily, although the Ministry of Hacienda insists on the legality of the measure, alleging that similar taxes are imposed in the harbor of New York on similar services.

I have [etc.]

JEFFERSON CAFFERY

821.1561/89

*The Minister in Colombia (Caffery) to the Acting Secretary of State*

No. 1099

BOGOTÁ, March 28, 1930.

[Received April 21.]

SIR: Referring to previous correspondence concerning the objections of Grace and Company to a 25 per cent charge which had been imposed on launch services in the port of Buenaventura, and with special reference to my despatch No. 1056 of March 19, saying that I had taken up the matter informally with the Colombian Minister of Foreign Affairs, I have the honor to report that the Minister of Hacienda has signed a decree temporarily lowering the tax on launches at Buenaventura from 25 to 15 per cent.

I have [etc.]

JEFFERSON CAFFERY

821.1561/93

*The Minister in Colombia (Caffery) to the Acting Secretary of State*

No. 1159

BOGOTÁ, April 16, 1930.

[Received May 12.]

SIR: Referring to my despatch No. 1099 of March 28, in which I reported that the Colombian Minister of Hacienda had signed a decree temporarily lowering the tax on lighters in the port of Buena-

<sup>4</sup> Instruction not printed.



ventura from 25 to 15 per cent, I have the honor to report that the decree in question was published in the *Diario Oficial* No. 21364 of April 11, copies of which are transmitted herewith.<sup>5</sup> It may be noted that under the terms of this decree the lighters can be used only until the completion of the wharf now under construction at Buenaventura. The Colombian representative of Grace and Company called on me today to discuss this matter, and informed me that the company was not satisfied with this tax reduction, as they desired to use the lighters after the completion of the wharf. Mr. Parmerton will take up the matter directly with the new Minister of Hacienda as soon as he can see him, and I told him that, in the event he were unsuccessful there, I should be disposed to take up the matter informally with the new Minister of Foreign Affairs.

I have [etc.]

JEFFERSON CAFFERY

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821.1561/94

*The Minister in Colombia (Caffery) to the Acting Secretary of State*

No. 1180

Bogotá, April 28, 1930.

[Received May 17.]

SIR: Referring to my previous reports concerning Grace and Company's objections to a lighterage tax at Buenaventura, and especially to my despatch No. 1099 of March 28, reporting that the tax had been temporarily lowered from 25 to 15 per cent, and to my despatch No. 1159 of April 16, setting out that the Grace Line was not satisfied with the decree making the change, because it would not permit them to use their lighters after the completion of the wharf, I have the honor to report that I took up this matter informally on Friday last, with the new Minister of Foreign Affairs, Dr. Samper Madrid, who promised me that he would at once see what he could do about it with the New Minister of Hacienda, Dr. Eduardo Vallejo. On Saturday evening, Mr. Parmerton, the local representative of Grace and Company, informed the Legation that he had another interview with Dr. Vallejo and received the impression that, as a result of Dr. Samper Madrid's intervention, the Ministry of Hacienda was showing a much more favorable disposition than hitherto, to comply with Grace and Company's request.

Mr. Parmerton is now hopeful that means will be found for allowing them to continue to use their lighters after the completion of the wharf.

I have [etc.]

JEFFERSON CAFFERY

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<sup>5</sup> Not reprinted.

821.1561/90

*The Acting Secretary of State to the Minister in Colombia  
(Caffery)*

No. 147

WASHINGTON, April 29, 1930.

SIR: The Department has received your three despatches dated February 17, March 19, and March 28, 1930,<sup>6</sup> regarding the complaint made by Messrs. Grace and Company against the tax imposed by the Colombian Government on the use of privately owned lighters in the port of Buenaventura. Your report in the last of the foregoing three despatches that a decree had been issued lowering the tax from 25 to 15 per cent has been communicated to the Company in a letter of April 24, 1930.<sup>7</sup> Your statement in the despatch of March 19 that Colombian officials had alleged, in justification of the measure, that "similar taxes are imposed in the harbor of New York on similar services" has been brought to the attention of the Secretary of the Treasury in a letter of April 24, 1930; and he has been asked to indicate whether it is true that similar taxes are imposed in the harbor of New York on similar services. As soon as his reply shall have been received it will be communicated to you by telegraph.

There is enclosed for your further information and consideration a copy of an additional letter dated April 22, 1930, from the Company on the subject.<sup>7</sup> In view of the statements made therein you are authorized to take such further informal action with reference to the matter as you may deem proper.

In this connection reference is made to the intimation in your confidential despatch of February 17, 1930, which the Department has noted with especial interest, that the situation complained of may have grown out of a contest between the two United States concerns mentioned by you as being interested in the matter and whose interests with reference to it appear to be conflicting. You will, of course, keep this carefully in mind and because of it handle the matter with the greater caution. Should you, however, consider it proper to take any further action in the matter on behalf of Messrs. Grace and Company you might invite the attention of the Colombian authorities to the assertion in the Company's letter, a copy of which is enclosed, of a belief that the discontinuance of private lighterage operations in this port, which is said to be contemplated by the Colombian authorities, would not only injure their established lighterage business but would restrict the facilities of the port and thus interfere with international commerce. You might also call attention to the Company's assertion that it was at the request of the Colombian Government

<sup>6</sup> Despatch of February 17 not printed.

<sup>7</sup> Not printed.

that the Company purchased their lighters and established the existing service at Buenaventura. The Department prefers, however, that you should take no further action with reference to the matter until you shall have received the telegraphic instruction referred to above, communicating the Treasury Department's reply to the inquiry whether it is true that similar taxes are imposed in the harbor of New York on similar services. It is supposed that the telegraphic instruction will probably have reached you before receipt of this mail instruction.

I am [etc.]

For the Acting Secretary of State:  
FRANCIS WHITE

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821.1561/91 : Telegram

*The Minister in Colombia (Caffery) to the Secretary of State*

BOGOTÁ, May 9, 1930—6 p. m.  
[Received 8:50 p. m.]

62. My despatch number 1159 of April 16. Pursuant to Parmerton requests I took up lighter matter informally with new Minister for Foreign Affairs.

Minister of Hacienda is revoking part of March 27 decree which prohibited use of lighters after completion of pier: this is what Grace asked for.

CAFFERY

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821.1561/96

*The Secretary of the Treasury (Mellon) to the Secretary of State*

WASHINGTON, June 2, 1930.

SIR: Receipt is acknowledged of your letters of April 24, and May 22, 1930<sup>o</sup> (LA 821.1561/89, LA 821.1561/94), inquiring whether it is true, as has been alleged, in justification of the imposition of a special tax on privately owned lighters operating in the port of Buenaventura, Colombia, that similar taxes are imposed in the harbor of New York on similar services.

The Department has no knowledge of Federal lighterage charges or special taxes levied on privately owned lighters operating in New York harbor, which has been verified by the Collector of Customs at New York, N. Y. It seems probable, however, that there are port or local lighterage taxes assessed at New York, over which the customs officers have no jurisdiction, and which are not controlled in any way by the Federal Government.

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<sup>o</sup> Neither printed.

The Department has no further information on the subject of your communication.

By direction of the Secretary:

Respectfully,

S[EYMOUR] LOWMAN  
*Assistant Secretary*

821.1561/96

*The Secretary of State to the Chargé in Colombia (Muse)*

No. 152

WASHINGTON, June 10, 1930.

SIR: In the Department's instruction of April 29, 1930, regarding the complaint of Messrs. Grace and Company against a tax imposed by the Colombian Government on the use of privately owned lighters in the port of Buenaventura, the Legation was informed, you will recall, that the Secretary of the Treasury of this Government had been asked to indicate whether it is true, as had been alleged, in justification of the measure, that similar taxes are imposed in the harbor of New York on similar services. You were also informed that as soon as a reply should be received it would be communicated to you by telegram.

The Treasury Department's reply not having been received as soon as it was expected a second inquiry, dated May 22, 1930,<sup>10</sup> was addressed to the Treasury Department. There is enclosed for your information a copy of a letter of June 2 from that Department<sup>11</sup> which, you will note, replies to this Department's letters of April 24 and May 22, 1930.<sup>12</sup> This has already been brought to the attention of the chief of your Mission who, you are of course aware, is now in Washington. Since the nature of the Treasury Department's response is such that it appears not to warrant reopening the discussion with the Colombian authorities on the subject, Mr. Caffery has said that he sees no reason why the information should be sent to you by telegraph. Therefore, it is being forwarded by mail merely for the completion of the Legation's records on the case.

I am [etc.]

For the Secretary of State:  
FRANCIS WHITE

821.1561/104

*The Minister in Colombia (Caffery) to the Secretary of State*

No. 1544

BOGOTÁ, August 30, 1930.  
[Received September 17.]

SIR: Referring to previous correspondence in connection with the matter of the use of private lighters in the port of Buenaventura,

<sup>10</sup> Not printed.

<sup>11</sup> *Supra.*

<sup>12</sup> Neither printed.

and with special reference to my despatch No. 1237 of May 16, 1930,<sup>13</sup> transmitting copies of a telegraphic exchange of communications between the Grace representative at Buenaventura and Dr. C. A. Urueta, their legal adviser here, I have the honor to report that Dr. Urueta informs me that while I was in Washington he instituted an appeal before the Council of State against the 15% tax on lighters.

Two days ago the Council of State suspended provisionally the decree of the Minister of Hacienda imposing the tax of 15% on lighters in the port of Buenaventura while the whole matter is being studied by the Council of State.

Respectfully yours,

JEFFERSON CAFFERY

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821.1581/106

*The Minister in Colombia (Caffery) to the Secretary of State*

No. 1648

Bogotá, September 20, 1930.

[Received October 1.]

SIR: Referring to previous reports concerning the difficulties of Grace and Company at the port of Buenaventura, and with special reference to my despatch No. 1544 of August 30, in which I told of the suspension by the Council of State of the 15% tax that had been imposed by the Ministry of Hacienda on the Grace Line's lighters at Buenaventura, I have the honor to report that Mr. Parmerton, the Colombian representative of Grace and Company, returned to Bogotá a few days ago and came to see me, and told me that his Company was highly pleased with the outcome of these protracted negotiations.

He observed that Mr. Renwick, customs expert of the Kemmerer Mission, was studying the whole question of port services and especially the matter of taxation and charges.

Respectfully yours,

JEFFERSON CAFFERY

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<sup>13</sup> Not printed.

CUBA  
POLITICAL UNREST IN CUBA

837.00/2809

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

No. 258

HABANA, June 23, 1930.

[Received June 27.]

SIR: I have the honor to refer to my confidential despatch No. 221 of May 28, 1930,<sup>1</sup> and to state that since my last report to you I have had numerous conversations with President Machado, Colonel Mendieta and other leaders of both the Government and the Unión Nacionalista. My aim has been to encourage coöperation between them, so that the reforms to which both the President and his opponents are committed in principle might be the more readily carried out. The arguments that I have used to both parties to bring about this compromise were those of patriotism and enlightened self-interest. I think the President would be favorably disposed to the inclusion of members of the Unión Nacionalista in his government. However, the Unión Nacionalista has as yet been unwilling to consider any compromise that does not include an agreement on the part of President Machado to hold a new presidential election within at least three years. I have consistently refused to have anything to do with this proposal, and the insistence of the Unión Nacionalista upon this point has made it thus far impossible to reach any satisfactory conclusion.

Nevertheless, the general situation has improved since my last report. The satisfactory settlement of the telephone controversy (see my despatch No. 247 of June 4, 1930),<sup>1</sup> the procedure along strictly legal grounds of the investigation of the Artemisa affair,<sup>2</sup> the firmness with which the Government has refused to tolerate any seditious movement and, at the same time, the moderation with which it has evidently conducted its relations with the press, all have contributed to create a distinctly better atmosphere in Cuba. With the one exception of comments on the American tariff, the newspapers have been singularly free in the past two or three weeks from violent criticism or attacks of any kind, and it is obvious that a calmer and more optimistic attitude toward Cuban economic and political conditions prevails.

I have [etc.]

HARRY F. GUGGENHEIM

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<sup>1</sup> Not printed.

<sup>2</sup> Riots of May 18 at Artemisa.

837.00/2812 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

[Paraphrase]

HABANA, July 10, 1930—4 [3?] p. m.

[Received 6:15 p. m.]

95. President Machado informed me that he will send a message to Congress asking approval of laws providing for immediate new census and reform of electoral code making possible reorganization of political parties and organization of a new one. If these projects are carried out in good faith, which I believe is President Machado's desire, they should satisfy all legitimate demands of the Unión Nacionalista.

GUGGENHEIM

837.00/2815

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

No. 291

HABANA, July 15, 1930.

[Received July 21.]

SIR: I have the honor to report that further efforts to reconcile the differences between the Machado administration and the Unión Nacionalista have apparently failed because the latter will not relinquish their issue of the constitutionality of the present administration.

The negotiations were conducted through Mr. Antonio Gonzalez Mendoza, a prominent business man who is a friend of mine and a close friend of Colonel Mendieta. I was at all times informed of the discussions and used my personal good offices to bring the two groups into agreement; but the continued obstinacy of Colonel Mendieta and his associates in demanding Machado's resignation made it impossible to reach an accord.

The President made every reasonable concession to his opponents. He was willing to ask Congress to enact legislation to provide for a new census, to modify the electoral laws in such a way as to bring them into conformity with the spirit of the Crowder Code<sup>\*</sup> and to permit the reorganization of the political parties and the organization of new ones. In other words, he would make it possible for the Unión Nacionalista to organize as a party and to present candidates at the forthcoming elections. He refused point blank, however, to admit any discussion of the constitutionality of his election.

In the face of this impasse, the President, at my suggestion, determined to go ahead with the beforementioned legislative program

<sup>\*</sup> See *Foreign Relations*, 1919, vol. II, pp. 1 ff; also *Ley Orgánica del Poder Ejecutivo y Reglamento para el Gobierno de las Secretarías de Despacho de Cuba de Enero 26 de 1909* (Habana, 1909).

and to inform the Nacionalistas of his intentions. He felt, and I believe rightly, that this would cut most of the ground out from under their feet. He therefore sent for Antonio Mendoza, but the latter took the occasion to request the proposals mentioned above and to add the stipulation that the President should resign and call for a new presidential election if the Nacionalistas returned a majority of the 24 Senators and 59 Representatives to be elected.

The President agreed to accept these proposals and instructed Clemente Vasquéz Bello, President of the Senate and of the Liberal Party, to draft an electoral law and appropriate covering message to Congress. The Nacionalistas, however, refused to accept.

It is my well considered opinion that President Machado has proceeded in this matter in good faith and has been animated by a real desire to compose his differences with the Nacionalistas. There can be no question that he was disposed to make important concessions to them. He was even willing to take some of their leaders into his Cabinet and would probably have been persuaded to grant amnesty to the persons indicted in connection with the riot at Artemisa last May.

The Nacionalistas, however, showed themselves to be most stubborn and uncompromising. They have made much of their so-called ideals and demands for electoral reforms and have asserted that they represent a majority of the Cuban people. Yet when offered practically everything for which their program calls excepting the actual resignation of the President, they declined. The inference from this is obvious: in the last analysis the Nacionalistas want only one thing, to satisfy their own personal ambition to get into office.

I am of the opinion that Colonel Mendieta and his associates are almost at the end of their resources and that if the President will honestly carry out the census and the reform of the electoral laws the Nacionalistas will in due course either be forced to cooperate with him on his own terms or play their last card by attempting to start a revolution.

I have [etc.]

HARRY F. GUGGENHEIM

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837.00/2816

*The Chargé in Cuba (Reed) to the Secretary of State*

No. 298

HABANA, July 18, 1930.

[Received July 21.]

SIR: Confirming the Ambassador's telegram No. 99 of July 16, 5 p. m.,<sup>5</sup> I have the honor to transmit herewith a copy and translation of President Machado's message to Congress<sup>5</sup> asking approval of a Law

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<sup>5</sup> Not printed.



to permit the Unión Nacionalista to participate as a political party in the November elections, as well as to authorize the Government to carry out the decennial census prior to the elections of 1932, and recommending that Congress study the matter of reforming the existing electoral laws.

The President furnished the Ambassador a copy of this message on the day preceding the latter's departure. It has not yet been made public and the project of law mentioned therein is apparently not yet available. It appears likely that the President is waiting until the draft of the law has been completed before giving out the text of his message.

It will be noted that the contents of this message fall somewhat short of what the President told the Ambassador were his intentions (see Embassy's telegram No. 95, July 10, 3 p. m. and despatch No. 291 of July 15). As far as the Embassy has been able to ascertain, the President was willing to go ahead with the entire program which he outlined to the Ambassador, but was dissuaded by Mr. Clemente Vasquez Bello who felt that any re-organization of the Liberal Party, of which he is President, would at the present time be extremely bad political tactics.

I have [etc.]

EDWARD L. REED

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837.00/2821

*The Chargé in Cuba (Reed) to the Secretary of State*

No. 329

HABANA, August 8, 1930.

[Received August 11.]

SIR: With reference to my despatch No. 326 of August 5, 1930,<sup>6</sup> I have the honor to report that the Lower House on August 5 rejected by a vote of 86 to 1 President Machado's message and accompanying project of law providing for electoral reforms.

The practical unanimity of the vote against the message came as somewhat of a surprise. It was believed, and I had been so assured by persons highly placed in the Government, that the Liberal congressmen at least would comply with the President's wishes as expressed in the message. It would appear, however, that after the Nacionalistas issued their manifesto refusing to accept the President's offer, General Machado gave Congress a free hand in voting on the bill. I saw him this morning for a few minutes and although he did not actually confirm the foregoing impression, he did refer in injured tones to the "aggressive attitude" which the Nacionalistas had displayed in the matter.

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<sup>6</sup> Not printed.

This is the first time that the Cuban legislature has refused to assent to an executive message of President Machado. The decision to vote against the message was taken by each party group meeting in committee prior to the session. Various reasons were given in the resolutions adopted by the committees. The Liberals announced they were actuated by the rejection of the measure by the Nacionalistas. The Conservatives expressed the opinion that a measure which conferred special privileges on any single group of citizens was unconstitutional. The Populars were motivated principally by their opposition to the provisions of the bill authorizing the merger of political parties.

In the circumstances, the Government does not consider that the adverse vote on the message indicates any lack of confidence in the Administration. They are unquestionably right in so interpreting the action of the Liberal majority. Debate on the bill disclosed antagonism toward the Government only on the part of the small minority of Congressmen who have habitually refused to cooperate with the Administration. The other speakers concerned themselves almost entirely with the inadequacy of the bill and its inutility, now that the Nacionalistas had declined to accept it.

As reported in my despatch under reference, Mr. Antonio Mendoza is again actively engaged in exploring the possibilities for an agreement between the President and the Nacionalistas. He now has another plan, different from that described in my No. 326, which would involve the postponement of the November elections until March 1 and an agreement by the President to resign on May 20, 1931, if the Nacionalistas should return a majority of their candidates. He called upon me twice on August 6 and discussed this plan with me at considerable length. A memorandum of these conversations is enclosed.<sup>7</sup> The Nacionalistas have accepted the plan in principle and have authorized Mendoza to discuss it with the President. He has not yet done so, however, because the President was out of town until this morning. I understand that he will try to obtain an audience some time today.

The Department's attention is particularly invited to Mr. Mendoza's insistence in his conversation with me on the Embassy's lending its moral support to the carrying out of the plan which he has elaborated. I cannot escape the feeling that it would be unwise for the Embassy to assume any such responsibility. We might, it is true, find it expedient and politic to do so if it were the only means of assuring the maintenance of peace in Cuba. I am not, however, convinced that such a contingency has yet arisen. If the President accepts the plan we should, of course, be free to determine at any time in the future and in any given circumstance whether action by the Embassy to insure the

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<sup>7</sup> Not printed.

carrying out of the plan is necessary and desirable, but I am of the opinion that we should endeavor to avoid any general commitment until the need therefor is apparent.

It will be noted from the minute of my conversation with Mr. Mendoza that I declined to give him the assurance which he requested; that I told him, however, that I felt sure that the Ambassador could properly lend his informal good offices in encouraging both sides to abide by the terms of any agreement which might be reached, provided the agreement did not entail the American Government's undertaking to act as an arbiter or policeman in any controversy which might arise, and that he could tell the Nacionalistas this but should make it clear that the statement was made on my own personal responsibility.

When he returned on the afternoon of August 6, Mr. Mendoza assured me that this was exactly what he had told the Nacionalistas. He added that it did not entirely satisfy them but that it was apparently sufficient to enable him to induce them to authorize him to discuss the plan with the President.

With respect to Mr. Mendoza's latest plan, a copy and translation of which are enclosed,<sup>s</sup> it may be pointed out that it is very similar to the one which the President was willing to accept a month ago and which was described in the Embassy's despatch No. 291 of July 15, 1930. The principal difference resides in the proposal to postpone the elections until March 1, which would give the Nacionalistas plenty of time to organize as a party. It is, therefore, very much more advantageous to the Nacionalistas and the President may consequently be less disposed to accept it. Furthermore, the Liberal party is unalterably opposed to converting the parliamentary elections into a plebiscite to determine whether General Machado shall remain in office. They feel that they are the strongest party, but that General Machado is losing his popularity and they do not desire to be made to suffer the consequences. My authority for this is the President of the Liberal party.

This despatch should be read in conjunction with the Ambassador's No. 291 of July 15, 1930, and previous despatches reporting his conversations with the President, Colonel Mendieta and Mr. Antonio Mendoza regarding negotiations looking toward a *rapprochement* between the Nacionalistas and the President. As these conversations may continue for an indefinite period, I should be very glad to have the benefit of any instructions which the Department may desire to furnish me concerning the attitude which it considers proper for the Embassy to assume in the premises.<sup>sa</sup>

Respectfully yours,

EDWARD L. REED

<sup>s</sup> Not printed.

<sup>sa</sup> Apparently no instructions were sent in reply to this despatch.

837.00/2834

*The Chargé in Cuba (Reed) to the Secretary of State*

No. 360

HABANA, September 16, 1930.

[Received September 19.]

SIR: I have the honor to report that press agency despatches containing an alleged statement by the Undersecretary of State regarding the possible attitude of the United States in the event of a revolution in Cuba have occasioned widespread comment in the local press.

This statement as furnished the *Havana Post* by the Associated Press reads as follows:

"In conference with newspapermen earlier in the day, Secretary Cotton declared there had been no political report on Cuba and that the question of a possible United States attitude in the event of revolution in Cuba had not been brought to his attention.

"Closely questioned he agreed that special treaty relations with Cuba placed 'a definite duty of assistance in Cuba' on this government in the event of general disorder in the island. He said, however, that a prophecy could not wisely be made as to what action this government would take in event of a Cuban revolution.

"The secretary said the treaty relations with Cuba were not duplicated in this country's relations with other countries to the South, in answer to the suggestion that the United States might be just as disinterested in Cuba as in Argentina and Peru, he recalled the Platt amendment<sup>9</sup> to show that the suggestion of this possibility was unfounded.

"The acting secretary said, however, it could be of no benefit to outline a course of action for this government in regard to Cuba before some event in the island necessitated the formulation of an official attitude. He said he did not care to 'speculate' concerning Cuban conditions."

The opposition newspaper *El Pais* interprets the remarks attributed to Mr. Cotton as confirming the great interest of the United States Government in Cuban affairs. In the same edition, this paper published a report, which was later denied, that Ambassador Guggenheim had been ordered to return to Cuba immediately in view of the gravity of the situation here.

The Government press, represented by *Heraldo de Cuba*, construed the statement as reported as manifesting the intention of the Department of State to discourage any revolutionary activities in Cuba and to support the constituted authorities in the event of an outbreak.

While the reports of Cuban unrest which apparently have been published in the American press are exaggerated, it is nevertheless true that rumors of an alarming nature have been more prevalent

<sup>9</sup> For text of act of U. S. Congress, approved March 2, 1901, see *Foreign Relations*, 1902, p. 320; or 31 Stat. 897. For text of treaty of May 22, 1903, between the United States and Cuba, see *Foreign Relations*, 1904, p. 243.

during the last few days than at any time here during the last year. The reason for this is probably to be found in the proximity of the elections and in the desire of the Administration's opponents to cause them to be postponed until after electoral reforms and a reorganization of the parties shall have been carried out. Although the Nacionalistas profess to be opposed to American intervention in any form, their present campaign of propaganda is undoubtedly inspired to a considerable extent by the hope that the Government of the United States can be induced to suggest the desirability of putting off the elections to a later date.

Respectfully yours,

EDWARD L. REED

837.00/2888

*The Chargé in Cuba (Reed) to the Secretary of State*

No. 372

HABANA, September 23, 1930.

[Received September 26.]

SIR: I have the honor to submit the following report on recent political developments in Cuba:

While continuing without respite their attacks on the constitutionality and conduct of the Machado administration, the Nacionalistas have, during the last fortnight, concentrated their efforts on one point in their program, namely, the necessity of postponing the November elections until such time as the electoral reform which they consider essential can be put into effect. They appear to have gained several important adherents to this view, chiefly from the Conservative Party. Ex-President Menocal, himself, has emerged from his political retirement with the avowed purpose of mediating between the Government and the Opposition and he is understood to advocate the postponement of the elections, although he has thus far failed to make his promised public declaration regarding his position and his views.

General Menocal's return to the political stage has aroused more speculation and conjecture than anything that has happened here recently. The Nacionalistas are trying to use him for their own purposes in the hope that if they can persuade him to declare publicly that the elections should be postponed, the Conservative Party will follow him into a joint opposition with the Nacionalistas. Other Conservative leaders are, however, unwilling to see their chief manoeuvred into such a position and are generally believed to be at their wits' end to find some way of extricating the former President from the rather delicate situation into which his failure as a mediator and his supposed advocacy of delayed elections have placed him.

Furthermore, Menocal's renewed political activity is interpreted as indicating his desire to succeed to the Presidency in 1935, or earlier, if President Machado can be induced to resign. It has even been suggested in certain quarters that Machado should appoint Menocal Secretary of State and then retire from office, leaving the latter at the head of the Government as provisional President. Although little importance need be attributed to such propositions at the present time, Menocal's professed disinterestedness in trying to discover a solution of existing political differences is open to serious doubt and the probabilities are that he sees an opportunity of deriving some personal advantage from the unrest and discontent that now prevail in Cuba.

That such unrest and discontent exist is undeniable and the resultant political situation naturally lends itself to exploitation by any strong politician whether he be unprincipled or not. Up to the present Menocal and Mendieta are the only persons who have the necessary following to enable them seriously to embarrass the Government, . . . Together, however, they might represent a danger to Machado's administration and it is my opinion that the President will find means to keep them from uniting. . . .

The difficulties of the political situation are increased by the ill considered and exaggerated publicity given in the United States to minor events in Cuba and by the declarations of returning visitors who, after remaining in Habana for a few days and listening only to the complaints of persons hostile to the Government, appear to regard themselves as qualified to predict dire results unless the United States Government takes a hand in Cuban domestic affairs. Such publicity and such statements only serve to exasperate the Cuban authorities and to encourage the Government's enemies to look to the United States for assistance in turning out President Machado. The Nacionalistas neither expect nor desire American intervention in the sense of a temporary occupation, but they realize only too well that if the American Government could be induced to demand that President Machado adopt any given course of action such, for instance, as a postponement of the elections, he would be ruined politically whether he acquiesced or not.

President Machado's own views on the political situation, as expressed to me recently on two occasions, are that the present tension is merely the logical concomitant of Cuba's economic depression. He professes not to be seriously concerned by the activities of his adversaries and hopes to be able to satisfy their legitimate demands for political reform after the elections which, he intends, shall be held regardless of all opposition.

There is so much truth in the assertion that the country's political discontent is attributable in large measure to its economic ills that

discussion of the point seems unnecessary. I may say, however, that in every conversation I have had with Cubans and Americans who are opposed to the Machado administration I have asked the following question: "If sugar were selling at 3 cents a pound, would the present political agitation continue?"; and the answer has invariably been: "No."

In spite of the President's professed lack of serious concern over the political situation, there is abundant indication that he is not disposed to under-estimate the strength of the opposition. During the last ten days he has visited Pinar del Rio and Santa Clara where he was the object of what appear to have been carefully arranged ovations on the part of the military forces stationed in those provinces. This week he will attend a similar function at Matanzas and in the near future he is to be the guest of a monster banquet at Camp Columbia in which it is reported that enlisted men to the number of 3,000 will participate. This injection of politics into the military establishments has drawn the fire of the Nacionalistas who contend that it is illegal for the army to have anything to do with political matters, but the President has lent a deaf ear to their protests and can be expected to make the most of these opportunities to demonstrate the army's loyalty to him and to his Administration.

A cause of possible trouble to the Government has been temporarily eliminated through the action of the authorities of the National University of Habana in postponing the annual opening of that institution until after the elections. The Government places responsibility for this decision on the Rector of the University, but no one can be expected to believe that it was not taken after consultation with the public authorities. As explained to me by one of the President's closest political friends, it had been ascertained that the students were planning to turn the opening ceremonies into an anti-Government demonstration and the Government considered it desirable to avoid any possibility of disorders.

The Government's attitude toward the press is not always consistent and it appears that a new system of harassing anti-Administration publishers is being developed which involves delaying the transmission of press telegrams from the interior and raids by the police on the plants of offending journals, for which acts the police officer in charge of the raiding party assumes all the blame, while the Government refuses to accept any responsibility and insists outwardly at least on conformity with the legal procedure. This is what occurred in the case of the seizure of the comic weekly *Karikato* which apparently has attracted widespread attention in the United States.

In conclusion, I may express the opinion that the Government is strong enough to cope with its enemies and will be able to hold the elections in November without encountering serious opposition. The

elections will be held and so far as they go, will, I believe, be conducted as fairly as any preceding elections in Cuba. The only persons interested in their results are the candidates and their immediate supporters. The Liberals will win in every province excepting perhaps in Pinar del Rio; the Conservatives will finish a poor second; the Populars will elect a senator or two and a handful of representatives and the Nacionalistas, whose strength cannot be estimated although they are certainly as numerous as the Conservatives, will, of course, have to wait until 1932 before they can vote for candidates of their own, provided always the President keeps his promises regarding electoral reforms.

Respectfully yours,

EDWARD L. REED

837.00/2840

*The Chargé in Cuba (Reed) to the Secretary of State*

No. 376

HABANA, September 26, 1930.

[Received September 29.]

SIR: I have the honor to transcribe below, as of possible interest to the Department, the texts in English translation of Associated Press and United Press despatches published here, purporting to give the substance of remarks by Mr. Cotton with regard to the recent statement on the Cuban situation made by Senator David I. Walsh of Massachusetts.

Washington, September 22 (A. P.).—The Acting Secretary of State, Joseph P. Cotton, to-day announced, in connection with the predictions made by the democratic senator Walsh regarding possible disorders in Cuba in the near future, that the reports received in the Department contain nothing which justifies the alarm which the senator is trying to disseminate regarding present conditions in Cuba.

It is believed in certain quarters that in speaking of such reports, Mr. Cotton referred to the conversations which the United States Ambassador in Cuba, Mr. Harry F. Guggenheim, had recently with Secretary Stimson and with Cotton, himself, last week.

The Acting Secretary of State added that Ambassador Guggenheim shares the opinion of the officials of the Washington Government that conditions in Cuba would in no way warrant any action on the part of that Government.

Washington, September 22 (U. P.).—The reports reaching the Department of State regarding the situation in Cuba are at variance with those in possession of the democratic senator Walsh of Massachusetts, according to a statement made to-day by Acting Secretary of State Cotton.

In a statement issued yesterday Senator Walsh declared that serious disorders are brewing in the Republic of Cuba and may have disastrous consequences unless the United States intervenes with its aid to prevent them. Commenting on this, Cotton said that the reports



received from Habana indicate that the situation in Cuba is tranquil and that there is no indication that there is any possibility of political or other disturbances.

Secretary Cotton further declared that the reports received by the Department of State concerning Cuba are exceptionally good (*sic*) and that the Department's information does not indicate that there exists in the Island any alarming situation, as Senator Walsh's statement seems to indicate.

The Secretary added that he saw nothing which might require action by the United States in Cuba at the present time. He explained that Harry F. Guggenheim, United States Ambassador in Cuba, had called at the Department of State last week and expressed an opinion regarding the Cuban situation entirely different from that described by Senator Walsh.

The above statements were, of course, welcomed with unconcealed jubilation by the friends of the Machado Administration and with corresponding chagrin by its opponents.

Respectfully yours,

EDWARD L. REED

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837.00/2842 : Telegram

*The Chargé in Cuba (Reed) to the Secretary of State*

HABANA, September 30, 1930—7 p. m.

[Received 11 p. m.]

114. Clashes occurred this morning between police and University students, several hundred of whom were attempting to stage an anti-Government demonstration. There was some shooting on both sides; and two students, one labor agitator, and one policeman were badly wounded. Eight policemen, an unknown number of students, and a few bystanders were slightly injured.

Order was restored in a short time; but extreme precautionary measures adopted by the authorities and great display of police force seem to indicate that the Government is seriously concerned. All approaches to the Palace have been heavily guarded all day by police, and traffic in its immediate vicinity suspended. These measures seem scarcely calculated to inspire confidence.

The Government insists that students, accompanied by Communist agitators, first attacked police who were attempting to break up their procession and that police retaliated in self-defense. This is denied by the students, several of whom together with a professor have been arrested. It seems impossible to obtain an impartial account of the incident but I am inclined to doubt that the police acted without provocation.

The Government expected trouble at the University today and large forces of police and troops were concentrated there early this morning.

There were no further disorders this afternoon. The incident has caused a tremendous sensation, and the opinion is freely expressed that other similar clashes will follow.

The Nacionalista leaders disclaim any connection with today's demonstration and assert that they endeavored to discourage it.

REED

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837.00/2843 : Telegram

*The Chargé in Cuba (Reed) to the Secretary of State*

HABANA, October 1, 1930—noon.

[Received 4:19 p. m.]

115. My 114, September 30, 7 p. m. There have been no further disorders. Extra police have been withdrawn excepting those guarding the University. It is hoped that all of the wounded will recover. Morning newspapers severely criticize police for lack of forbearance in dispersing students. A special judge has been designated to investigate matter. Press censorship was established by decree this morning.

Fernandez came to see me this morning after conference with the President. He said that there was no indication that Unión Nacionalistas were responsible for students' demonstration but that President felt that they were indirectly responsible because of inflammatory statements which they have been publishing in the newspapers especially in *El País*. The President has information that Nacionalistas are planning a large concentration in Habana prior to public meeting scheduled for October 11, and he expects trouble. He therefore determined to adopt a less lenient attitude toward the press.

I have just had a talk with a prominent official who is opposed to Machado. He blames the Government for not allowing students to assemble in the University and expresses opinion that if any of wounded students die funeral will be occasion for serious rioting. He believes that situation is rapidly approaching a crisis and that unless President yields to demand that elections be postponed, he will be forced to resign.

[Paraphrase.] My opinion is, that while there is cause for uneasiness due to widespread popular discontent and growth of sentiment against holding elections in November, yet the Government will be strong enough to dominate any situation that may arise, unless there is unforeseen disaffection in the Army. [End paraphrase.]

REED

837.00/2844 : Telegram

*The Chargé in Cuba (Reed) to the Secretary of State*

HABANA, October 2, 1930—11 a. m.

[Received 1:40 p. m.]

118. All morning newspapers carry report that President is sending message to Congress requesting immediate suspension of constitutional guarantees in Habana municipal district. I hope to obtain official confirmation of this before noon.

One of wounded students died last night; every precaution being taken to prevent disorders at funeral this afternoon.

Reed

837.00/2844½

*Memorandum of Conference by the Secretary of State With the Press  
on October 2, 1930*

## [Excerpt]

A correspondent said that press dispatches from Havana report that President Machado contemplates asking Congress to suspend constitutional guarantees until after the forthcoming elections. The correspondent enquired whether this Government has any attitude or policy on that. The Secretary said that the Department has a policy toward Cuban affairs, and that he would give the correspondents the background.

The correspondents could state authoritatively that the Department is carefully watching the situation in Cuba. The Secretary has gained the impression that some of the correspondents had the idea that perhaps we were not watching. We have no idea of minimizing any situation which may exist but are carefully watching it.

*To be used merely as background and not to be attributed to the Secretary, the Department or any official.*

The Secretary then gave the correspondents the following information for their guidance. One should always remember the official and regular policy of this Government. It was stated nearly thirty years ago interpretative of our duty to Cuba under the Platt Amendment. A great many people seem to think that the Platt Amendment gives us a protectorate over the internal affairs of Cuba and that we are to go in there any time the Cubans seem to be running their government in a little different way from what the Secretary of State or the President of the United States think they should run it.

That view is entirely different from the attitude of this Government as it was officially stated at the time the Platt Amendment was made. At that time the Secretary of War, Mr. Elihu Root, sent a cable to General Wood then the Governor General of Cuba containing the following statement:

"You are authorized to state officially that in the view of the President the intervention described in the third clause of the Platt Amendment is not synonymous with intermeddling or interference with the affairs of the Cuban Government, but the formal action of the Government of the United States, based upon just and substantial grounds, for the preservation of Cuban independence, and the maintenance of a government adequate for the protection of life, property, and individual liberty, and adequate for discharging the obligations with respect to Cuba imposed by the treaty of Paris."

The statement was made because at that time there was a good deal of fear in Cuba as to the intent of the Platt Amendment and doubt as to whether we might impose our views on their internal affairs much more freely than was intended by the amendment.

The Secretary called the attention of the correspondents, by way of background, to the fact we have never intervened in Cuba except once in 1909 [1906]<sup>9a</sup> when there was no government there. The government that had been in power had resigned and armed forces of rebels were all through the country. Another time we made a pretty strong threat, and that was during the war and was made as a war measure. There was danger the crops of Cuba, on which we were depending, might be destroyed, but that was wholly a war measure. That is the background of the policy under which this Government will act; and under that background we are watching the situation very carefully, and we will guide our conduct accordingly.

A correspondent said that he understood the Secretary to mean by intervention the actual sending of armed forces into Cuba, that he would not consider the sending of electoral observers as we had in 1921 as intervention.<sup>9b</sup> The Secretary said when we did so in 1921, we did it on the invitation of the Cuban Government. General Crowder went to Cuba in 1919 on their invitation and drew up the electoral law and in the elections of 1920 we had not more than a half dozen observers throughout the island.<sup>10</sup> They had no authority, but merely advised us. A correspondent said he had been wondering whether the State Department had made any suggestions to the Machado Government toward the liberalization of its regime. The Secretary said he would rather not say anything about that. We have an Ambassador in Havana, who has regular relations with the

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<sup>9a</sup> See *Foreign Relations*, 1906, pt. I, pp. 454 ff.

<sup>9b</sup> See *ibid.*, 1921, vol. I, pp. 670 ff.

<sup>10</sup> See *ibid.*, 1919, vol. II, pp. 1 ff., and *ibid.*, 1920, vol. II, pp. 1 ff.

Cuban Government, the relations which an Ambassador should have, and it would not be proper to say publicly what he has or has not said. We have made no formal suggestions of any sort. There is no situation yet which, in our opinion, would lead to that. The correspondent said the whole matter seemed to him to turn on the question of whether in the event of an outbreak American forces would be landed to maintain the present regime. The Secretary said the correspondents could say that has never been done in the past. American forces have never landed in Cuba when there was any regime to maintain. The only times we have gone into Cuba was when there was no government. The Secretary reiterated he was speaking merely for the background of the correspondents and was not making any statements. The reason he did not want to make any statements was that he did not want to have any inadvertent word given now regarding action of this Government in the future. The Secretary was merely trying to give the correspondents precedents which could be followed whenever we have to take up the case. The correspondent explained to the Secretary that the reason he and his colleagues were interested in the subject was because the question came up repeatedly during the Secretary's absence. It came up through members of the Senate as to what the policy of the United States would be in case of a revolution in Cuba. Undersecretary Cotton did not make any commitments at all, but said our relations with Cuba, obviously, through the Platt Amendment were different from our relations with Peru, Bolivia and Argentina. The Secretary said he also had made the same statement. All the Secretary wished to do was to give the correspondents information as to what has been done and the precedents under which we will have to act if action should become necessary, just in the same sense that no court ever decides a case until it has the actual case before it, so no government would ever want to say what it will do until the question comes up. As a matter of precedents the Secretary said emphatically we have never intervened in Cuba to maintain an existing government. The Platt Amendment is for the purpose of maintaining the independence of Cuba and not the maintaining of any particular government. The policy of the Administration is to carry out the policy laid down in the beginning and carry out that policy in the light of such situations as shall come up, but which we cannot foresee.

A correspondent enquired whether his understanding was correct that it is not the policy of the United States to intervene in behalf of any particular regime or party, but it might be the policy of the United States to intervene to restore order. The Secretary said the language of the Platt Amendment is this: "the Government of

Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence and the maintenance of a government adequate for the protection of life, property and individual liberty, and for discharging the obligations with respect to Cuba imposed by the Treaty of Paris on the United States." The Secretary said that that is quite distinct from supporting any particular Government.

The Secretary declined to comment concerning this Government's attitude toward the suspension of the constitutional guarantees. *End of section for background and guidance only, not to be attributed to the Secretary, the Department, or Government officials.*

The Secretary said the correspondents could say that it was pointed out at the State Department that there was never an intervention in Cuba to support a Government. The Secretary suggested that the correspondents be very careful about this. They asked him whether they might say they had learned from the Department that no intervention had ever taken place. The Secretary said there was always the possibility in the quotation of a single thing without the guarding circumstances around it, that it might be used by some factions for their encouragement. It is possible that a junta might take that as encouragement to revolt. There is that danger in intimation that we would not interfere. Therefore the Secretary asked the correspondents to say it was pointed out at the State Department that while it is true there was never an intervention in Cuba to support a government, every case in the future will be judged on its merits and a situation might exist which would distinguish it from the preceding one. A correspondent enquired whether it would not help to clarify if the correspondents were to bring in the quotation which the Secretary had read of Mr. Root's telegram to Governor General Wood. The Secretary said he was perfectly willing the correspondents should use that which has been the national policy of this government for twenty-seven years. It is our policy as applied to questions which come up before us, about which we cannot prophesy now.

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837.00/2845 : Telegram

*The Chargé in Cuba (Reed) to the Secretary of State*

HABANA, October 2, 1930—1 p. m.

[Received 2:45 p. m.]

119. My No. 118, October 2, 11 a. m. I am officially advised that the President has sent a message to Congress requesting authorization to suspend, in his discretion, constitutional guarantees in Habana

municipal district in accordance with articles 40, 41 and 42 of the Constitution. Congress will probably grant this authority tomorrow.

My informant assures me that President merely wishes to be armed with this authority in case of unforeseen emergency. He will, however, use it to prevent public meeting of Unión Nacionalista as scheduled for October 11.

Warnings to newspaper publishers have apparently accomplished the purposes of a press censorship although no official censorship has yet been established. Situation outwardly calm here this morning.

REED

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837.00/2856½

*Memorandum of Conference by the Secretary of State With the Press  
on October 3, 1930*

[Excerpt]

A correspondent stated he had been away for a few days with the President and asked if he could be enlightened on the Cuban situation. The Secretary referred the correspondent to the statement made the previous day. Mr. Stimson answered in the affirmative the enquiry of a correspondent whether there might be an objection to the use of the Secretary's name in connection with the statement. A correspondent pointed out that the morning newspapers had already attributed the statement to the Secretary. Mr. Stimson replied that the statement made by him had been intended entirely for background purposes with two exceptions which had been specifically indicated.

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837.00/2846: Telegram

*The Chargé in Cuba (Reed) to the Secretary of State*

HABANA, October 3, 1930—10 a. m.

[Received 11:30 a. m.]

120. Student's funeral passed off quietly. There is no sign of further disturbances. Congress meets this afternoon to act on President's message requesting authorization to suspend Constitutional guarantees not only in Habana, as previously reported, but anywhere in the country.

Press censorship actually although not officially declared.

REED

837.00/2850 : Telegram

*The Chargé in Cuba (Reed) to the Secretary of State*

HABANA, October 4, 1930—10 a. m.

[Received 11:30 a. m.]

121. My telegram No. 120, October 3, 10 a. m. Congress last night passed law authorizing the President, whenever he deems it necessary, to suspend constitutional guarantees for 20 days but only in city of Habana and adjacent townships. Measure was warmly debated in both Houses. Vote in Senate 15 for, 5 against; in House 88 for, 10 against.

REED

837.00/2868 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

[Paraphrase]

HABANA, October 13, 1930—10 a. m.

[Received 11:45 a. m.]

125. The hope inspired by the sugar stabilization plan and the growing realization that your policy is not to intermeddle or interfere with the affairs of the Cuban Government have created a distinctly better atmosphere here. President Machado has dealt firmly with the situation, and the Opposition are no longer encouraged with the thought that agitation and demonstration will bring American diplomatic interposition or intervention. The fact that the leaders of the Opposition are in straitened financial circumstances or that their political fortunes are at stake still causes me anxiety lest desperate acts be committed especially between now and election.

As yet there has been no sign of disaffection in the Army except in the case of one officer merely under suspicion who has been given leave of absence in the United States.

GUGGENHEIM

837.00/2875

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

[Extract]

No. 404

HABANA, October 23, 1930.

[Received October 25.]

SIR: I have the honor to report that conditions continued to remain quiet and orderly in Habana and, for the most part, throughout the Island. There are fewer surface indications of any tension; the currency of the more exaggerated rumors has largely subsided; the police



are no longer searching automobiles on their way into Habana; and there is no unusual display of policemen on the streets. . . .

The emergence of Mario G. Menocal, former President of Cuba, as a strong political factor in the present situation, is of particular interest. Retrieving some of the once great popularity that was dissipated in the hatred surrounding his departure from office, he has come from retirement to resume leadership of the Conservative Party. Under his influence some effort has been made to rally the different units of the opposition group around him, and I have been reliably informed that Carlos Mendieta, leader of the Unión Nacionalista, offered to Menocal the leadership of all the elements in opposition to the government. This is the more surprising in view of the traditional hostility between Menocal and Mendieta, the latter having been a violent and bitter critic of Menocal during the Menocal administration.

Since my return, I have had conferences with both of these individuals. Mendieta appeared at his request at the Embassy residence on October 7 to repeat all the arguments which he had presented to me in the past and to ask that the United States invoke the Platt Amendment to prevent the November elections and to restore constitutional government. I replied that our policy had recently been defined by the Secretary of State, and that we would not intermeddle in the affairs of the Cuban Government. He then specifically asked that we adopt a "policia preventiva" (preventive policy).

The same demand for intervention was the theme of an unexpected conference with Menocal the next day at luncheon, at which the latter denounced the Machado government for the usual reasons and then denounced the United States Government for its policy of non-intervention. I expressed surprise that he should advocate American interference in Cuban affairs since the Embassy's records were full of protest from him during his Presidency against such interference. I repeated to him that our policy was clear and would not be changed, and when he demanded that the coming elections be postponed, I reminded him that he was no doubt familiar with the negotiations which had taken place last Spring in order to make it possible for the Unión Nacionalistas to go to the polls. He declared that Mendieta had no right to speak for any opposition in the country; that he, Menocal, alone could speak with authority for those opposing the Government.

The last statement, which was made before the reported Mendieta alliance, is an interesting illustration of dissension within the opposition group itself. President Machado's control of the situation seems to have been strengthened within the past two weeks, and it is only from the desperate straits surrounding some of the opposition

leaders that immediate trouble is likely to arise, although the Government financial situation is giving me serious alarm. This will be fully discussed in another despatch, No. 403, October 22, 1930.<sup>11</sup>

Respectfully,

HARRY F. GUGGENHEIM

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837.00/2878 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, November 1, 1930—7 p. m.

[Received 9:20 p. m.]

128. Today's partial congressional elections are thus far reported to have passed without incident throughout Republic. Polls closed at 3 p. m.; the efforts of Nationalists and the Menocal group of Conservatives to persuade abstention from voting had limited response. Military and police reserves for maintenance of order not used, although undoubtedly public knowledge of precautionary measures had salutary effect.

GUGGENHEIM

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837.00/2882 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, November 11, 1930—2 p. m.

[Received 4:05 a. m.]

133. Opposition continues active agitation. Student disorders in Habana Sunday; demonstrations in Pinar del Rio Monday; and more violent disturbance in Santiago Sunday and Monday where several students including girls injured in clash with police. Following the student demonstration, students reinforced by a group from the city in a demonstration to secure release arrested leaders tore down busts of Governor Barcelo of Oriente and the Mayor of Santiago and attempted to damage a statue of President Machado. The police reinforced by the Army promptly dispersed the crowd, several of whom were injured and one killed, and restored order.

GUGGENHEIM

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837.00/2886 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

[Paraphrase]

HABANA, November 13, 1930—4 p. m.

[Received 9 p. m.]

137. Student disorders have occurred daily in Habana since November 9. They have become general throughout Cuba. The Government

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<sup>11</sup> Not printed.

believes that these demonstrations are instigated by the Opposition and by radical labor factions which hope to win public sympathy from clashes of police with students, many of whom are of no more than high school age. National leaders in Santiago have been arrested under this charge. It is now apparent that students make up only a small part of the disorderly groups. The secondary public schools have been closed. President Machado intimates [he has?] appointed Senator Barerras, a person of distinction, to seek an adjustment of the student situation.

Last night in a street demonstration in Habana the sister-in-law of the assistant editor of the *Diario de la Marina* was killed on balcony by a stray bullet. The *Diario de la Marina* was temporarily suspended this morning because of hostile comments on this incident in addition to recent provocative articles. Tonight the same action will be taken against *El Pais*.

On November 9 a decree was signed appointing military supervisors in each province to direct the maintenance of order. Today President Machado suspended the constitutional guarantees in accordance with the authority granted by Congress on October 3, reported in telegram 121, October 4, 10 a. m. To maintain order in Habana the police have been reinforced by troops. The Government states there have been no disorders in the provinces today.

GUGGENHEIM

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837.00/2887 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

[Paraphrase]

HABANA, November 14, 1930—10 a. m.

[Received 1:55 p. m.]

138. In an endeavor to terminate the present disorder and agitation, I am extending my unofficial good offices to bring about a *modus vivendi* between Machado and General Menocal and Mendieta heading Opposition, in the hope that these difficulties can be peacefully settled by proposed political reforms. Since the Opposition's rejection of a proposed peace last spring, the present situation is the first occasion in which any advice on my part would be helpful rather than harmful. The events of yesterday have somewhat modified the method for developing a *rapprochement*. As yet it is too early to judge whether these efforts can succeed.

GUGGENHEIM

837.00/2888 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, November 14, 1930—4 p. m.

[Received 8 p. m.]

139. No disorder at Habana since yesterday afternoon when knowledge of suspension of constitutional guarantees became general. Provinces reported quiet.

Publication of all important Habana daily and weekly newspapers in press association last night agreed to suspend in order not to submit to Government supervision. Two Government dailies and foreign-language newspapers still published.

In rioting yesterday afternoon, Arturo Tagle y Soria, claiming native American citizenship, was gravely wounded. Accounts of disinterested American witnesses substantially agree that he was among group ordered to disperse by troopers. He was slow in movement and when urged forward by machete blows he turned in anger and wrested machete from soldier and employed weapon against him and troopers who came to their comrade's assistance with machetes and was shot while so engaged. His affidavit and affidavit of a Cuban witness are not in agreement with foregoing. He disclaims all responsibility but admits striking trooper in self-defense. Claims birth at Key West, January 10, 1906, and to be member coast artillery unit National Guard there. Father, Luis Felipe Tagle, resides 1108 Division Street, Key West.

GUGGENHEIM

837.00/2887 : Telegram

*The Secretary of State to the Ambassador in Cuba (Guggenheim)*

[Paraphrase]

WASHINGTON, November 15, 1930—2 p. m.

129. Your 138, November 14, 10 a. m. While I fully appreciate your desire to be helpful in the present difficult political situation in Cuba, yet I am somewhat troubled at the implications involved in your taking any initiative in extending good offices between President Machado and the Opposition leaders, particularly in your saying anything to the Opposition which they might take as encouragement at this critical time. If President Machado asks your informal cooperation and help, the matter would have a somewhat different aspect. I think you should be very careful not to originate any move which might be interpreted as interfering either by the Government of the United States or by you personally in Cuban internal political affairs.

STIMSON

837.00/2891 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

[Paraphrase]

HABANA, November 16, 1930—10 a. m.

[Received 3:15 p. m.]

141. Your 129, November 15, 2 p. m. I am sorry that my telegram No. 138, November 14, 10 a. m., gave you the wrong impression. My actions have avoided the dangers you pointed out.

I was first approached by Señor José Rivero, Director of the *Diario de la Marina*, and a mutual friend of General Menocal and myself. At the request of President Machado I continued conversations with Señor Rivero who proposed "a six months' armistice" during which the economic problems of Cuba should be cared for. My efforts were confined to finding a way for General Menocal to save his face and cease agitation. Circumstances have been altered by events of the last few days, and General Menocal undoubtedly has hope of arousing public opinion in the United States to interfere in Cuba. General Menocal is expectantly awaiting the convening of the Congress of the United States. His changed views had ended my conversations prior to the receipt of your telegram.

The Government has published report circulating for some time of a plan to damage American property in Cuba, certain properties specifically designated and heavily guarded by police. Possibly such actions may be taken with the deliberate intention of provoking American interference. Number of shots fired outside Embassy residence midnight of November 14 resulting, according to police report, from an attack on a policeman who was stationed there. There have been no disorders in Habana since November 13 and only minor student disorders in the provinces.

GUGGENHEIM

837.00/2894 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, November 19, 1930—5 p. m.

[Received 7:30 p. m.]

144. Cavalry no longer patrolling streets of Habana and troops have been withdrawn from active police duty. Habana quiet and no reports of any disorders of size in the interior. Newspapers still refusing to publish under Government supervision. Senator Barerras announced today that his negotiations with students were at an end since the latter would not confine their demands to University ques-

tions but extended them to political topics. Condition of Tagle improved.

Widespread dissatisfaction with what might be called deadlock between the Government and Opposition.

GUGGENHEIM

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837.00/2899 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, November 22, 1930—noon.

[Received 2:25 p. m.]

145. Tagle died yesterday morning. Foreign Office has been requested to investigate. Report being made to Department with affidavits by Tagle and eyewitnesses to incident.

Thursday,<sup>12</sup> Senate passed bill authorizing President to suspend constitutional guarantees when deemed necessary in any part of Cuba for 60 days and authorizing President to use Treasury funds in any manner desired for enforcement without accounting for extraordinary expenditures to Congress. Lower House expected to act Monday. This is unofficially stated by Government as answer to students demand for the fall of Machado regime.

GUGGENHEIM

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837.00/2912

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

No. 442

HABANA, November 24, 1930.

[Received November 28.]

SIR: I have the honor to report on the present grave situation in Cuba. In my personal letter to you of October 11, 1930,<sup>13</sup> I summarized four serious problems that it seemed to me were the essential factors in averting a crisis in Cuba. These problems were:

“(1) A solution of the fundamental economic problem which is the removal of the surplus sugar.”

The sugar stabilization plan has been enacted into law. The price of sugar has, as a consequence, had a forty to fifty per cent rise. This plan has inspired hope, but its final success is, of course, still not certain. At the present time a Cuban-American Committee is en route to Holland to negotiate an agreement with European and Javanese producers of sugar.

“(2) A restoration of Cuban political liberties.”

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<sup>12</sup> November 20.

<sup>13</sup> Not found in Department files.

The President has sent a message to the Senate, which it is now considering, calling for the restitution of the Crowder Electoral Code in its pristine condition, which, among other benefits, will permit the organization of new parties. The House of Representatives has before it a bill for the prompt taking of a census. Immediately thereafter, it is planned that there be a reorganization of the old parties.

"(3) A further drastic reduction in the budget and readjustment of the Government finances."

At the time I wrote you my letter of October 11, I was engaged in the study of the Government finances. On October 22, in my confidential despatch No. 403,<sup>14</sup> I pointed out this very unsatisfactory condition. In this despatch, which reported a conference with President Machado, I said,—

"It seemed to me there was only one way to avert a (financial) collapse, and that was to settle the political agitation and to win the general support of the country so as to make possible the severe budget reductions."

The President has reduced the budget as far as expediency permits, but the Government's financial problem is far from solved, and he has not won the support of the country, although it must be admitted that no one could win its full support under present conditions. (See my despatch No. 408 of October 27, 1930.)<sup>14</sup>

I hoped, before now, to have come to Washington to discuss the finances of the Cuban Government with you, and to get your instructions on what our attitude should be under the circumstances in consideration of Article II of the Platt Amendment. The political situation has made it impossible for me to do so. Unfortunately, the Government finances are taking the course anticipated in my despatch No. 403. Cuba's financial problem is so bound up with its political problem that I hesitate at the moment to make any specific recommendation. If President Machado is able to stabilize the country, I should like to come to Washington to discuss with you the merits and demerits of interposing no objection to temporary financial aid to the Cuban Government by bankers interested in Cuba and, if you deem advisable, discussing the Cuban financial situation with American bankers but, at the present moment, I am neither able to leave Cuba, nor am I justified in making recommendations for the solution of this vital problem. In the meanwhile, the Government's financial status becomes daily worse.

"(4) The immediate prevention of the spread of revolutionary sentiments which are particularly prevalent in this period before election day."

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<sup>14</sup> Not printed.

Immediately after your statement of policy and upon my return here, there was a marked decrease in revolutionary agitation, to such an extent that the election was held without disorder. When the usual election excitement had subsided, it seemed at one time as if my good offices would be helpful in arranging a *modus vivendi* between the Government and the opposition, since the latter was in a mood for compromise. The situation changed rapidly, however; the student agitation became critical, public opinion was inflamed by the vigorous methods of the Government in maintaining order, and all the opposition groups joined forces, with the avowed purpose of unseating the Machado Government. As soon as I sensed that they would not compromise with this intention, I realized that further efforts on my part would be useless and withdrew immediately from the negotiations. These events have been fully reported to you. At the present moment, due to the suspension of the constitutional guarantees, rioting has subsided. While the Government has as yet failed to reach a compromise with either the students or the press, it holds apparently the position of vantage. All but the Government-controlled Habana newspapers still refuse to publish unless the Government agrees to remove all censorial supervision; but the financial loss which this attitude involves each day makes it likely that they will shortly resume publication. In its mediation with the students, the Government, in an attempt to rid the country for all time of student agitation, has offered autonomy to the University, with Government subsidy—a plan similar to that governing our own State institutions. The student leaders, “taking a leaf from the book of the opposition,” have replied that they cannot deal with an unconstitutional government and now demand the resignation of President Machado. Within the last day or two, however, another more reasonable Student Committee has been found, and there is evidence that the Government will succeed in effecting the desired settlement of student grievances.

In this situation, there are indications that the anti-Machado propagandists will redouble their efforts in the United States to induce an intervention in Cuba, which will put the present Government out of power.

The political history of the Republic of Cuba is a history of periodic conspiracy to overthrow the government. The inevitable means employed is the establishment of a “Junta” in the United States for the dissemination of highly-colored propaganda to the public in general and our Congress, in particular. The recent events in Cuba have been partially due to the successful campaign of these propagandists who have been encouraged to renew their efforts to force our interference in Cuba.

I sincerely hope that these efforts will not set in action forces that will precipitate the thought of an intervention. Intervention has,



of course, always been resented by the Cuban people in the past; it would be particularly resented today, however, both in and out of Cuba, and could only have the most harmful consequences for the United States. Even the opposition, which has been privately asking me for a preventive intervention policy solely to unseat the Machado regime and give their own faction a chance at the spoils of power, would strenuously object to any intervention which did not have that result, or which continued after that result was indicated. Nevertheless, this policy is, for the moment, the opposition's best, and possibly only, chance of success. At first the tactics of the opposition were to create the impression that the Machado dictatorship was maintained in power by the Government of the United States. When your policy of non-interference was announced, these tactics were changed to the promotion of intervention. As I have stated, they have already asked me privately for American interference, and their propaganda has reached the extent of newspaper attacks on you and me personally, threats of violence, and destruction of American life and property in Cuba. Unfortunately, the revolutionary movement is not instigated by inspired leaders, but is born of the misery on the island fathered by aspiring politicians.

Respectfully yours,

HARRY F. GUGGENHEIM

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837.00/2904 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, November 26, 1930—2 p. m.

[Received 3 p. m.]

146. Referring to my telegram No. 145, November 22, noon, House last night passed a Senate bill authorizing President to suspend constitutional guarantees.

GUGGENHEIM

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837.00/2915 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, December 1, 1930—10 a. m.

[Received 12:47 p. m.]

150. President Machado will sign decree today restoring constitutional guarantees which were suspended in Habana for twenty days on November 13 and also decree reopening University of Habana. On Saturday troops were withdrawn from University and yesterday Rodriguez Molina appointed new rector ad interim. Legislation for University autonomy being studied.

GUGGENHEIM

837.00/2916 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, December 4, 1930—noon.

[Received 1:50 p. m.]

155. At reopening of University yesterday morning students were permitted to hold mass meeting without molestation by authorities. Leaders incited attack upon administration building following which group marched without permit toward center of city for purpose of arousing students at normal school and institute. One of the police who were attempting to stop demonstration killed by unknown person. All students arrested were released last night.

GUGGENHEIM

837.00/2918 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, December 8, 1930—3 p. m.

[Received 4:40 p. m.]

156. University open in theory but students refuse to attend. Various rectors have no sooner been suggested than their withdrawals have been forced by the student directory, the activities of whom are political and not academic. The student question is being agitated by the Opposition in their campaign of disorder in an endeavor to keep the public in a state of alarm.

GUGGENHEIM

837.001M18/49 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

[Paraphrase]

HABANA, December 10, 1930—3 p. m.

[Received 5:15 p. m.]

160. President Machado informed the members of his Cabinet that he wanted them to confer and advise him whether in the best interests of Cuba he should resign the Presidency.

GUGGENHEIM

837.00/2920 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

[Paraphrase]

HABANA, December 11, 1930—2 p. m.

[Received 3 p. m.]

162. Student demonstrations are taking place in various cities of the Island and are openly supported by Opposition. Great pressure is being brought to bear on President Machado to resign.

GUGGENHEIM

837.00/2921 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

[Paraphrase]

HABANA, December 11, 1930—5 p. m.

[Received 7:07 p. m.]

163. My 146, November 26, 2 p. m. This afternoon President Machado signed the bill authorizing him to suspend constitutional guarantees, and simultaneously suspension of the constitutional guarantees was decreed.

GUGGENHEIM

837.00/2922 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

[Paraphrase]

HABANA, December 12, 1930—4 p. m.

[Received 8:47 p. m.]

164. I have analyzed the present critical situation in Cuba as follows. The Opposition, realizing the depleted condition of the Treasury and taking advantage of the general poverty, has successfully renewed campaign to keep the country in a state of constant alarm without actual revolution and to interference with the operation of Government and business. As a result there exists an almost universal dissatisfaction with the Government and the funds in the Treasury have been reduced to a point of dangerous exhaustion.

The basic cause of the revolutionary sentiment is poverty, especially in the cities. The immediate occasion is found in the indignant idealism of the students. The leaders of the Opposition here cleverly organized the students into a movement for political purification, the sincerity of which is rendered doubtful by the past records of the leaders who have themselves practiced what they condemn. Under the

cloak of student protests, all factions opposed to the Government including the Communists and the unemployed are supporting the street demonstrations which have been temporarily halted by the suspension of the constitutional guarantees.

Among possible developments are these:

(1) President Machado's immediate resignation. This would probably be followed by a chaotic condition for an undetermined period.

(2) A *coup d'état* by the Opposition. In view of the political rivalry and the lack of solidarity among President Machado's opponents, this would probably also lead to a chaotic state of affairs. At present the Army is loyal to President Machado.

(3) An unsuccessful attempt at a *coup d'état* which might end in the destruction of the Opposition.

(4) If President Machado can maintain order through the next two months of the suspension of the constitutional guarantees, and if there should be an immediate rise in the price of sugar with general improvement in economic conditions, it might result in the return of President Machado to a state of reasonable prestige. This is highly improbable though possible.

(5) The development of a constitutional plan for a change in the Government involving President Machado's resignation within a reasonable time; the appointment of a Provisional President; the righting of the wrongs of the last constitutional convention to be followed by a general election after the census has been taken and the parties reorganized. While this would satisfy all of the reputed aspirations of the Opposition, yet their real desire probably is a *coup d'état* and an immediate chance at their turn at government. By setting them against each other, President Machado might successfully appeal over their heads to the people in support of this plan. But the difficulties would be very great.

The impoverished state of the Treasury and the constant diminution of revenues makes any form of government extremely difficult.

GUGGENHEIM

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837.00/2922a : Telegram

*The Secretary of State to the Ambassador in Cuba (Guggenheim)*

[Paraphrase]

WASHINGTON, December 12, 1930—5 p. m.

142. An Associated Press despatch from Habana dated December 11, 1930, reported that President Machado had suspended the constitutional guarantees throughout Cuba. The despatch adds:<sup>15</sup> "The

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<sup>15</sup> Quoted passage not paraphrased.

President's action followed a secret meeting of the Cabinet at which the United States Ambassador Harry F. Guggenheim was reported to be present, and it was known that important developments were expected." A further paragraph reports a number of rumors said to be current in Habana, and adds that all were denied. It is assumed that the report of your attending the Cabinet meeting is also unfounded. I should be glad to receive your report thereon.

Inform Department fully in regard to developments including reported Cabinet changes, and any information about the report of the Cabinet in the matter mentioned in your 160, December 10, 3 p. m.

STIMSON

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837.00/2923 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, December 13, 1930—1 p. m.

[Received 2 p. m.]

167. Order reported restored throughout Island. Troops quartered in Havana but not patrolling streets. Opposition movement continues to draw adhesions [*adherents?*] from professors, graduates, lawyers, physicians and from various labor organizations.

GUGGENHEIM

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837.00/2924 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

[Paraphrase]

HABANA, December 13, 1930—1 p. m.

[Received 2:25 p. m.]

169. Your 142, December 12, 5 p. m. The report of my attendance at Cabinet meeting is without foundation. I reported all Cabinet changes to you in despatch No. 455, December 10,<sup>16</sup> with the exception of the appointment of Molinet as Secretary of Public Instruction ad interim in addition to his regular post of Secretary of Agriculture. The Cabinet advised President Machado against resignation at this time, which would probably involve Cuba in chaotic conditions, and advocated stern measures for restoring order.

GUGGENHEIM

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<sup>16</sup> Not printed.

837.00/2935

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

No. 467

HABANA, December 15, 1930.

[Received December 20.]

SIR: I have the honor to refer to the Department's telegram No. 142, December 12, 5 p. m., and my reply thereto, No. 169, December 13, 1 P. M., reporting as without foundation the rumor that I had attended a secret Cabinet meeting of the Cuban Government.

The Embassy is continually embarrassed by rumors of this kind and by the distortion of news in the press, tending to give the impression that the United States Government is upholding the Machado Administration. In the past two months these misrepresentations have assumed the definite character of a campaign undertaken by the opposition with the two-fold object of intensifying the bitterness against Machado in Cuba and arousing popular sympathy in the United States for the opposition cause. An outstanding example of this is the misinterpretation of the Embassy's telegram No. 128, November 1, 7 P. M. to the Department on the elections stating that the efforts of the opposition to "persuade abstention from voting had limited response." This was apparently released to the press by the Department and was printed in distorted form in the Cuban newspapers, giving the impression that the Embassy had praised the elections as honest and fair. This interpretation was immediately seized upon by the opposition as evidence that the Embassy was in sympathy with the Government and wilfully misrepresenting the opposition cause. It is this incident, more than anything else, which is still being cited as indicating the Embassy's partisanship.

More recent news despatches from Washington also are illustrative of this sort of propaganda. The Associated Press seems to be one of the worst offenders in this regard. Its despatch on December 11 stating that I attended a Cuban Cabinet meeting has already been mentioned. In the same article, publicity is given to the rumor that I had summoned two American cruisers from the United States Naval base at Guantánamo. Similarly, on December 12, the Associated Press referred to the fact that the State Department's attention was again centered on the Cuban situation "with the resignation of President Machado considered a possibility." The Department's refusal to comment on the situation was interpreted "as a change in attitude on conditions in Cuba." Today the Associated Press carries a statement by Octavio Seigle, head of the opposition Junta in New York that "the Department of State hitherto has not published the real information about the existing conditions in Cuba." The statement proceeds to describe the formation of the

Cuban Patriotic League, with Seigle as secretary, which will handle the opposition's propaganda in New York and Washington. The Scripps-Howard syndicate also has a story under a New York date line of December 13, that,—

"There is dissatisfaction in Congressional circles over the apparent conflict between first-hand reports from Cuba picturing grave unrest bordering on revolution and State Department information, which is, in effect, that everything is about normal."

Manifestos issued here frequently accuse me of giving an inaccurate report of Cuban conditions and this impression is perhaps enhanced by such propaganda for the other side as found in the United Press despatch from Washington, in *Heraldo de Cuba*, the Government's paper, stating that Secretary Stimson is in receipt of a report that "President Machado has control of the situation, and is in a position to cope successfully with the opposition."

Propaganda of this sort plays upon what seems to be a fixed impression among the Cuban people—that the United States intends to support the Machado Government. The opposition have claimed that they would have led a successful revolution against Machado except that the United States would not permit it. Your statement of a non-interference policy placed them in an embarrassing position. Since they have no military support for a revolution, they are forced to continue with the propaganda that the United States is supporting Machado. As the bitterness against Machado increases with the increase of poverty, the ill feeling against the United States will increase. Newspaper comments in favor of the United States are infrequent under any circumstances, partly because it is usually good politics to decry "Yankee Imperialism." Of particular interest, therefore, are the two editorials attached in original and translation, one from *Heraldo de Cuba*, the Government paper before mentioned, the other from *El Mundo*, of a semi-government character, which comment appreciatively on the American policy of non-interference. The original press report that the Senate Foreign Relations Committee would take no further action on the Barlow case<sup>17</sup> caused an extremely good effect here, largely counteracted by the subsequent statement of Senator King that further investigation might be necessary. The statements by the United States Senators criticizing the Department's policy and attacking me personally are, of course, excellent material for the opposition's effort to discredit the Embassy's position. For example, the handbills and manifestos which are appearing daily and are increasingly violent in text have recently been printing the accusations that I have been bribed by the Cuban Government, or by the American bankers interested in Cuba—an

<sup>17</sup> See pp. 697 ff.

insinuation made publicly against me by Senator Thomas in an address in Oklahoma.

The Embassy has taken particular care that its actions should not have any semblance of political partisanship for Machado. Since my assignment to this post, all of my public utterances have been free from even the innocent polite praise that is so often bestowed upon a President by the head of a mission accredited to him.

Respectfully yours,

HARRY F. GUGGENHEIM

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837.00/2929 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, December 16, 1930—2 p. m.

[Received 4:23 p. m.]

171. Only very minor disturbances of peace in last two days, but several hundred arrests have been made of alleged agitators.

GUGGENHEIM

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837.00/2934 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, December 20, 1930—11 a. m.

[Received 1:15 p. m.]

174. The authorities suspended publication of *Diario de la Marina* last Thursday and arrested editor because of alleged subversive articles. There have been no disorders during the week, excepting minor disturbances resulting from nightly explosions of small bombs on streetcar tracks and in vicinity of Government buildings. Closing of University and suspension of faculties last Monday has deprived professors and the employees of means of livelihood and correspondingly increased general discontent.

GUGGENHEIM

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837.00/2938 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, December 27, 1930—11 a. m.

[Received 12:30 p. m.]

175. Little change during the week in the political situation. *Diario de la Marina* permitted to resume publication 25th. Government announces discovery of abortive attempt at uprising Christmas eve. Colonel Hevia, prominent leader of Unión Nacionalista, and several other alleged conspirators arrested yesterday and confined in military prison pending trial by court martial.

GUGGENHEIM



837.00/2939 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, December 29, 1930—3 p. m.

[Received 5:08 p. m.]

177. Authorities closed Habana Yacht Club yesterday afternoon, alleging that building was being used as meeting place by persons conspiring against the Government. This measure affects only the best social element among whom it has engendered increased bitterness toward Government.

GUGGENHEIM

837.00/2940 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

HABANA, December 31, 1930—11 a. m.

[Received 1:55 p. m.]

178. Police yesterday arrested retired Colonel Eduardo Puyol and 8 other intimates of ex-President Menocal as they were leaving latter's house. Charge understood to be that of conspiring to foment rebellion.

GUGGENHEIM

APPROVAL BY THE GOVERNMENT OF THE UNITED STATES OF NEW  
FINANCING ARRANGEMENTS BY THE GOVERNMENT OF CUBA

837.154/100

*The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State*

No. 73

HABANA, January 24, 1930.

[Received January 27.]

SIR: Supplementing my despatch No. 44 of January 10, 1930,<sup>18</sup> with reference to the financing of the Central Highway, I have the honor to report that the proposal made by Warren Brothers has not been accepted.

From a conversation which I had with President Machado on January 23, 1930,<sup>19</sup> I learned that the Cuban Government has decided to conclude arrangements with the Chase National Bank of New York, which will obviate the necessity for the temporary financing proposed by Warren Brothers and also by the Compañía Cubana de Contratistas.

It is understood that the Cuban Government was on the point of accepting the proposal when Mr. R. I. Barr, vice president of the

<sup>18</sup> Not printed.<sup>19</sup> See despatch No. 75, January 29, *infra*.

Chase National Bank arrived in Habana. Apparently Mr. Barr came for the express purpose of concluding the negotiations that have been pending for a number of weeks between the Government and the Bank. The fact that the Government was about to conclude an arrangement with Warren Brothers, even though it was a professedly temporary arrangement, doubtless hastened action by the Bank. The latter's local attorney, Dr. Enrique Hernández Cartaya, had advised against the acceptance of the Warren Brothers proposal, not merely because it was unnecessary in view of the Bank's proposal but also because it might give rise to legal complications.

According to the terms of the final agreement, as outlined by Mr. Barr, there has been no important change in the Bank's original proposal. The proposal is that the Cuban Government consent to the conversion of the public works certificates which the Bank now holds in its portfolio in the amount of \$40,000,000 and which under existing contracts must, with the \$20,000,000 of certificates issued to the American public, be paid off by 1935, into bonds maturing in 1945, under the same conditions as to security for payment of principal and interest, that is, by a pledge of 90 per cent of the special public works revenues. The bonds would bear  $5\frac{1}{2}$  per cent interest and would be amortized in ten annual payments beginning with 1935 or 1936.

As a result of this conversion the Government would be free to apply to further construction work at least \$15,000,000 per annum for the next five years. In delaying a public offering of the \$40,000,000 of public works certificates it now holds, the Bank, Mr. Barr feels, has done the Cuban Government a great favor, since, with the issuance of these certificates, it would probably have been difficult for the Government to raise additional loans against the public works revenues prior to 1935, when the last of the certificates would mature.

An important feature of the Bank's proposal is the offer to extend a fresh credit of \$20,000,000 to be availed of during the year 1930. The Government wanted the Bank to increase its additional commitment to \$40,000,000. This the Bank felt would be an unwise undertaking on its part, according to Mr. Barr, not only because the Bank cannot be certain as to conditions in the bond market later this year or at any time next year but also because it is not convinced of the wisdom of the Government in borrowing so large an amount at this time.

Apparently, the Government was convinced that the Bank would not increase its commitment beyond \$20,000,000. The Bank made some concessions in the matter of commissions, etc., to be paid on the certificates it holds, but won its point with reference to the price at which the certificates are to be converted into bonds, namely 94 per cent of par. The Bank felt that the bonds could not be offered to the

public at more than 98 and that a spread of at least four points was necessary to cover the cost of underwriting, distribution, etc.

It would seem, therefore, that the further financing of the special public works program has been definitely arranged and it is probable that the Department will be called upon shortly to give its opinion on the proposal of the Chase Bank. As stated by the President in my interview with him on January 23, 1930, the Cuban Government proposes to follow the same procedure as was adopted in 1928 in the case of the \$50,000,000 credit of the Chase National Bank,<sup>20</sup> that is, to have the bankers submit the loan proposal to the State Department, and to have the latter in due course instruct this Embassy to inform the Cuban Government as to its decision.

I shall send you a further despatch on this phase of the subject in relation to the Platt Amendment<sup>21</sup> in the near future.

I have [etc.]

HARRY F. GUGGENHEIM

837.154/103

*The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State*

No. 75

HABANA, January 29, 1930.

[Received February 4.]

SM: Referring to my telegram No. 15 of today's date,<sup>22</sup> I have the honor to submit the following report of a conversation which I had with President Machado on January 23, regarding the proposed flotation of a Cuban loan, in the course of which he agreed to furnish me facilities for obtaining such information concerning Cuban Government finances as will, I feel, enable me to formulate definite recommendations as to the desirability of the financing in question.

I told him that I wished to discuss with him the pending Cuban government loan. Various bankers had talked with me, in the fullest detail about the proposed financing for the Government, and I had encouraged these bankers to open negotiations with the Cuban Government, as it seemed to be essential that Cuba should have its finances put on a better basis. Inasmuch as the President was about ready to close a loan transaction with the Chase Bank, under normal circumstances, the Chase representatives would request the Department of State for its approval and the Department would undoubtedly ask me for advice and recommendations. In order that I might be in a position conscientiously to make final recommendations on this sub-

<sup>20</sup> See *Foreign Relations*, 1928, vol. II, pp. 642 ff.

<sup>21</sup> See *ibid.*, 1902, pp. 320-321; *ibid.*, 1904, pp. 243-246.

<sup>22</sup> Not printed.

ject, there was certain information that I would like to have. I suggested, as agreeable to the President, that Mr. Jones, whom he knew was here as my personal economic adviser, be placed in contact with some appointee of his in the Treasury Department so that he could thus informally get the information that I needed. I told him incidentally that the information desired would be of the same character as that which any Cuban citizen might request from Washington and which would be available in our many published reports.

The President replied that it would be unnecessary to go to the trouble of such an arrangement inasmuch as he personally would give me the information and tell me all about the matter now. I explained to him that I was thoroughly familiar with the terms of the proposed loan, but that I wanted certain fundamental data in regard to the financial status of the Government. I told him that I had not come to him on instruction from my Government, but that I felt we could make very much better progress if these matters could be studied in the informal way that I suggested. The President replied that, in the first place, he did not consider this loan an exterior loan, but, regardless of all that, he would give me any information of any character that I desired. In regard to the Platt Amendment, he wished to pursue the course that had been pursued before; it was not his intention to write to the State Department asking permission to contract for this loan; the bankers would ask permission of the State Department and after permission had been granted, we should address a note to him advising him of our decision. I told him that I would be glad to communicate this information to the State Department and to get their instructions, and that, in my opinion, the matter of real importance was to preserve the spirit of the Platt Amendment; that quite obviously the excellent credit which Cuba enjoyed at the present moment was due to the Platt Amendment. For example, the fact that her bonds were selling on a like basis with those of Denmark and very much higher than those of most Latin American republics was a result of the Platt Amendment. The President agreed with this and volunteered the suggestion that the way the Platt Amendment would lose its force would be through lack of need for its use. I told him that that was certainly the state of affairs that everyone desired and was interested in reaching.

The President said he was very pleased that I had brought an economist here on my staff; that he had a love for his country which was greater than any other sentiment and that my action was an indication of a desire to help his country and he appreciated it, and that I would see he was making every effort to improve the financial situation. He was working night and day to accomplish this, and he sincerely hoped I would study these questions so that he could have the benefit of my advice in regard to them. He proposed to apply the

new loan partly to reimburse certain special funds for money advanced for Public Works accounts and the balance would be devoted to specific limited Public Works appropriations which could not be overrun. First consideration would be given to the Central Highway. I assured him that my only desire was to be of assistance to him and that the fruits of our studies would be entirely at his disposal.

From the foregoing it would appear that President Machado no longer has any lack of confidence in our desire really to be helpful and such reservations as may have been in his mind since my arrival seem to have disappeared. He said that he would instruct the Secretary of the Treasury to get in touch with me and to arrange a method for getting the desired data.

I have [etc.]

HARRY F. GUGGENHEIM

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837.154/102

*The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State*

No. 77

HABANA, January 31, 1930.

[Received February 3.]

SIR: Referring to the Embassy's telegraphic despatch No. 15 of January 29, 1930,<sup>23</sup> I have to report that the investigation of the Cuban financial position is proceeding satisfactorily. Following the direction of President Machado, the Secretary of the Treasury has been very helpful in furnishing information. In anticipation of the probable satisfactory outcome of the investigation, I believe it would be advisable to be prepared to act promptly in order that the conclusion of the arrangements by the Chase Bank may not be delayed by the necessity for action on the part of the Department or of the Embassy.

With reference to the general question of Article II of the Permanent Treaty,<sup>24</sup> I am strongly inclined to believe that the relations between Cuba and the United States will continue to be improved if the provisions of this Treaty, which is frequently considered by the Cubans as a brand of inferiority and inequality, are obtruded as little as possible into the correspondence between the two governments. It would seem that this policy could be followed without in any way derogating from the full validity and efficacy of the Treaty provisions.

A study of the precedents in the files of the Embassy on Cuban financing, indicates that in the past the United States Government has followed varying methods for acquainting the Cuban Government

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<sup>23</sup> Not printed.

<sup>24</sup> Treaty between the United States and Cuba, signed May 22, 1903, *Foreign Relations*, 1904, p. 243.

with its objections or lack of objections to particular financing proposals. The prevailing aim seems to have been to keep alive the rights and responsibilities under Article II of the Treaty. In view of the present attitude of President Machado in fully coöperating with the Embassy in its study of the present financing, I believe that the rights of the United States under the Treaty may be adequately protected without suggesting to the Cuban Government that it is under financial tutelage. I would therefore recommend that after the Department has informed the Chase Bank that it does not object to the proposed financing, I be instructed to address the Cuban Government as follows:

"I am instructed by my Government to inform you that it has been advised by the Chase National Bank of New York of a proposal for new financing by the Government of Cuba. The Bank was informed that in view of the circumstances the Government of the United States does not see any occasion for raising any objection to the proposal in question."

I will inform the Department by cable when the investigation here has been completed.

I have [etc.]

HARRY F. GUGGENHEIM

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837.154/102 : Telegram

*The Acting Secretary of State to the Ambassador in Cuba  
(Guggenheim)*

WASHINGTON, February 4, 1930—4 p. m.

23. Your despatch No. 77, of January 31, last paragraph. When will investigation be completed? Department desires to act promptly in proposed Chase loan.

COTTON

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837.154/104 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Acting Secretary  
of State*

HABANA, February 5, 1930—noon.

[Received 12:35 p. m.]

17. Referring to Department's urgent 23, February 4, 4 p. m.; and my despatches numbers 75 of January 29 and 77 of January 31.

Financial statements promised for February 3 have not yet all been received. Have informed Chase representatives that within six hours after receipt of these statements we will be in a position to

make our recommendation. Chase representatives here admit that the business preliminary to bringing out loan are proceeding without interruption and that withholding of final approval of the Department is not delaying this transaction. Much of the data on Government's financial status has not been available to the Embassy and the only way we can form intelligent opinion on Cuban finances is by having these figures. The rest of the data has been promised for today.

GUGGENHEIM

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837.154/105 : Telegram

*The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State*

HABANA, February 6, 1930—11 a. m.

[Received 12:30 p. m.]

20. My telegram number 17, February 5, noon. Investigation enables me to say that the present status of Cuban Government finances would not in my opinion justify our Government in raising objection to the proposed Chase loan.

GUGGENHEIM

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837.154/107a

*The Acting Secretary of State to the Ambassador in Cuba (Guggenheim)*

No. 63

WASHINGTON, February 8, 1930.

SIR: With reference to your recent reports concerning the negotiations entered into by the Government of Cuba with the Chase National Bank for the purchase by the latter of an additional issue of Cuban Government bonds, and in confirmation of the Department's telegram No. 27, dated February 7, 4 p. m., 1930,<sup>25</sup> you are advised that the Department has informed the Chase National Bank that it has no objection to offer to the proposed financing.

You are accordingly directed to present to the Cuban Secretary of State a memorandum in the following terms:<sup>26</sup>

"I am instructed by my Government to inform you that it has been advised by the Chase National Bank of New York of a proposal for new financing by the Cuban Government, and that in view of the circumstances of the case the Government of the United States does not perceive occasion for raising any objection to the proposal in question."

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<sup>25</sup> Not printed.

<sup>26</sup> Presented in note of February 12, 1930; receipt of memorandum acknowledged by Cuban Secretary of State on February 17, 1930 (837.154/115).

As you will observe, the wording to be employed in this memorandum differs to some extent from that suggested in your despatch No. 77, of January 31, 1930. It has seemed to the Department, however, inadvisable to relinquish entirely the recognition of our position in such matters resulting from the Platt Amendment. It is believed that the memorandum as drafted, meets this need, while at the same time it would seem to avoid any possibility of wounding the sensibilities of the Cuban Government.

For your information there is enclosed herewith a copy of a letter dated January 31, 1930, addressed to Assistant Secretary of State White by the Chase National Bank, summarizing the arrangements which are contemplated with respect to the present financing.<sup>27</sup>

I am [etc.]

For the Acting Secretary of State:  
FRANCIS WHITE

837.154/116

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

No. 402

HABANA, October 23, 1930.

[Received October 25.]

SIR: I have the honor to report that negotiations between the Cuban Government and the contractors for the Central Highway (Warren Brothers and the Compañía Cubana de Contratistas) for financing work done or to be done on the Central Highway in the amount of \$19,000,000 are about to be completed.

A copy of a memorandum under date of October 14, 1930, containing the terms proposed by the Contractors was handed me by Dr. Fernández, at the suggestion of President Machado. Copies of this memorandum and of a translation thereof will be sent the Department within a few days.<sup>28</sup> As yet this Embassy has had no word from Warren Brothers.

It will be recalled that in February, 1930, the Cuban Government authorized the issuance of Special Public Works Gold 5½ per cent Bonds, maturing in 1945, in the amount of \$80,000,000, upon the security of the revenues of the Special Public Works Fund established under Law of July 15, 1925; that the Chase National Bank took \$40,000,000 of these bonds at 95 per cent of par in payment of Public Works Certificates previously discounted by the Bank and subsequently issued the bonds on the New York market; that the Bank simultaneously opened a credit of \$20,000,000 for the continuance of the Public Works Program, the advances under this credit to be secured by the remaining \$40,000,000 of bonds; and that the Bank

<sup>27</sup> Not printed. For text of decree No. 189 relative to financing agreement with the Chase National Bank of New York City, see *Gaceta Oficial*, February 10, 1930.

<sup>28</sup> Not printed.



received an option, good to August 8, 1930, to purchase all or any portion of these bonds at 95 per cent of par.

Because of the difficulties encountered in placing the first \$40,000,000 of the bonds and because of unfavorable conditions in the New York bond market, the Chase National Bank did not exercise its option under the contract made last February. In the meantime, the \$20,000,000 credit has been exhausted, but the Contractors have continued work on the Central Highway. On August 31, 1930, there was due the Contractors for work done the amount of \$8,937,331.95, according to figures furnished by the Department of Public Works.

Negotiations with the Chase National Bank were reopened in September, when Mr. Eddy, a Vice President of the Chase Securities Corporation, and Mr. Mudge, attorney for the Corporation, came to Habana. These negotiations, which continued for several weeks, had no result, two propositions submitted by Messrs. Eddy and Mudge being rejected by the Cuban Government. Thereupon the Contractors offered to arrange for the financing of their work.

The essential features of the proposals made by the Contractors are as follows:

1. The Cuban Government shall at once issue to the Contractors *Obligaciones del Tesoro al Portador* (payable to bearer), for work done to August 31, 1930, and additional *Obligaciones* of the same character on October 20, November 20, and December 20, for work done to the end of September, October and November, respectively.

2. The *Obligaciones* to be taken at 95 per cent of par and to carry interest at the rate of  $5\frac{1}{2}$  per cent per annum.

3. The *Obligaciones* to be issued in the total nominal amount of \$20,000,000.

4. The *Obligaciones* to be secured by

- (a) The unissued \$40,000,000 Special Public Works Gold Bonds now deposited with the Chase National Bank. (The proposed contract refers to these bonds as subject to a lien in favor of the Bank but provides that they shall not be sold except for the purpose of obtaining cash with which to redeem the new *Obligaciones*);

- (b) The unpledged surplus of the revenues of the Special Public Works Fund for the years 1931-1935, inclusive;

- (c) The unpledged surplus of the said revenues for the years 1935-1945, in so far as they may be required to pay in full the principal and interest on the *Obligaciones*;

- (d) The credit of the Cuban Government.

5. The Contractors not to issue the *Obligaciones* payable to bearer prior to December 31, 1930.

6. If the *Obligaciones* payable to bearer should be retired by payment in cash prior to December 31, 1930, the Contractors shall receive  $95\frac{1}{4}$  per cent of par for them.

7. If the Government should sell the bonds pledged as security for the Obligaciones, it must apply at least 70 per cent of the proceeds to retirement of the said Obligaciones, being free to dispose of not more than 30 per cent for other purposes, including the payment of interest accruing up to June 30, 1933. If by December 31, 1930, the Government should have made provision for the payment in cash of the Obligaciones al Portador to be issued as above indicated, in payment for work executed up to September 30, 1930, the Contractors agree to accept in payment for work executed after that date 5½ per cent *Obligaciones Nominativas* (registered obligations) in an amount sufficient to pay the cost of the work executed after September 30, 1930. These *Obligaciones Nominativas* will be issued in the name of the Contractors and may be negotiated only with two endorsements.

8. If, on the contrary, the Government should not be able to provide full payment in cash to each Contractor on or before December 31, 1930, for the work done prior to September 30, 1930, *Obligaciones Nominativas* will not be issued and the Contractors may freely dispose of the Obligaciones al Portador which they may have received and which they may thereafter receive.

9. The interest due on the Obligaciones for the period ending December 31, 1932, shall be paid on June 30, 1933. If, in the period between the issuance of these obligations to the Contractors and June 30, 1933, the Government should effect any financial operation respecting the \$40,000,000 in bonds pledged as security for the payment of these obligations, the Government shall set aside from the 30 per cent corresponding to it the amount necessary for the payment of the entire accumulation of interest due on these obligations up to June 30, 1933. This amount shall be deposited with the fiscal agent immediately upon the conclusion of the sale of the bonds.

10. The Obligaciones, whether *Nominativas* or al Portador, to be issued to the Contractors will mature June 30, 1935, or at any interest date prior thereto, if sufficient funds should become available from the sale of the Public Works Bonds. Likewise, the Government may retire these Obligaciones at any time between interest dates at 102 plus accrued interest. The total nominal amount of the Obligaciones that may be issued in accordance with this agreement may not in any case, without previous understanding with the Contractors exceed \$20,000,000.

Yesterday (October 21) I had a long conference with the President, which I shall make the subject of a subsequent despatch. In the course of this interview the President brought up the question of the proposed financial arrangement with the Contractors. He stated that, since the Chase National Bank was not prepared to issue any

part of the remaining \$40,000,000 of Special Public Works Bonds, some other arrangement was urgently required, if the work on the Central Highway were to be completed. I told the President that personally I perceived only one vital objection to the proposed agreement with the Contractors but that it would be necessary for the State Department to pass upon the matter before a definite statement could be given him. The principal objection raised by me was with regard to the right of the Government to apply not more than 70 per cent of the proceeds from the sale of the Special Public Works Bonds, in excess of the \$20,000,000 required to retire the outstanding credit of the Chase National Bank, to the payment of the Obligaciones to be taken by the Contractors. This I told him would be tantamount to increasing the total indebtedness secured upon the revenues of the Special Public Works Fund to an amount in excess of the \$100,000,000 which had been regarded as the maximum in the discussions of last January and February. The President argued that the revenues available in the period between January 1, 1933, when the amortization of the \$20,000,000 of Deferred Public Works Certificates offered in the United States in 1929 will have been virtually completed, and July 1, 1935, when amortization of the Special Public Works Bonds commences, would be more than ample to provide for the Obligaciones to be taken by the Contractors plus the deferred interest payments thereon. I then called his attention to the marked decline in the Public Works revenues in recent months and suggested the need for great caution in issuing additional obligations secured thereon. I stated that my Government would probably reserve judgment with respect to any increase beyond \$100,000,000 of the total indebtedness charged upon the Public Works revenues.

I suggest that if the Department perceives no objection in this financing, it would be appropriate for me to address a letter to President Machado in the sense of the following:

In reference to the proposed bases for the financing of the Central Highway operations, set forth in the "Minuta Número Dos", of October 14, 1930, which was handed me by Doctor Fernández and which you discussed with me when I had the pleasure of visiting you at your *finca* on October 21, my Government has instructed me to advise you that as the Obligaciones del Tesoro to be issued under the proposed financing appear to be merely substituted, for the present, for one-half of the forty millions of the authorized but unsold Special Public Works Bonds to the sale of which my Government offered no objection, when the latter was brought to its attention last January, my Government will not interpose any objection to this financing. I am directed to say, however, with particular reference to certain provisions of the proposed contract the execution of which might involve the issue of bonds and obligaciones in excess of \$100,000,000, that the absence of objection by my Government at this time does not imply the approval of any increase beyond \$100,000,000 of the total indebtedness charged upon the Public Works revenues.

In view of the urgency of this matter, I venture to suggest that the Department instruct me by telegraph with respect to any action which it may desire me to take.

Respectfully yours,

HARRY F. GUGGENHEIM

837.154/120

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

No. 416

HABANA, October 31, 1930.

[Received November 7.]

SIR: Referring to my despatch No. 405 of October 25, 1930,<sup>29</sup> I have the honor to report that the proposal made by the Warren Brothers Company and the Compañía Cubana de Contratistas for financing work on the Central Highway was duly accepted in terms substantially the same as those contained in said despatch; and a contract embodying this proposal was signed on Thursday, October 30, 1930, following the publication of Executive Decree No. 1434, which was signed October 24, 1930, but was not published until October 29, 1930.

Prior thereto I had received the Department's telegram No. 116 of October 29, 1930,<sup>30</sup> reading as follows:

"Department approves letter quoted in your despatch 402, October 23 last, regarding Public Works financing."

and had sent to President Machado the letter (copy enclosed)<sup>31</sup> referred to in my despatch No. 402 of October 23, 1930.

A copy of the said Executive Decree No. 1434, approving the proposal of the contractors, as appearing in the *Official Gazette* of October 29, 1930, together with a translation, is transmitted herewith.<sup>32</sup>

Respectfully yours,

HARRY F. GUGGENHEIM

837.154/121

*The Ambassador in Cuba (Guggenheim) to the Secretary of State*

No. 418

HABANA, November 6, 1930.

[Received November 10.]

SIR: Supplementing my despatch No. 416 of October 31, 1930, relative to the financing by the Warren Bros. Company and the

<sup>29</sup> Not printed; it transmitted copies of the proposal (*Minuta Número Dos* of October 14, 1930) of the contractors, Warren Brothers Company and the Compañía Cubana de Contratistas, for financing work on the Central Highway.

<sup>30</sup> File No. 837.154/116.

<sup>31</sup> Not printed; the letter is dated October 29, 1930.

<sup>32</sup> Not printed.

Compañía Cubana de Contratistas of the work that is being done by them on the Central Highway, I have the honor to report that I have received a letter, dated November 4, 1930, from President Machado acknowledging receipt of my letter of October 29, 1930, and stating his conformity therewith.

Copies of President Machado's letter and of a translation of the same are transmitted herewith to the Department.

Respectfully yours,

HARRY F. GUGGENHEIM

[Enclosure—Translation <sup>23</sup>]

*The President of Cuba (Machado) to the American Ambassador  
(Guggenheim)*

HABANA, November 4, 1930.

MY DEAR MR. AMBASSADOR: Pursuant to your letter of October 29, last, relative to the issue of Treasury Certificates (Obligaciones del Tesoro) to pay for the work on the Central Highway until its completion in February, next, I am pleased to state to Your Excellency that the said issue constitutes solely an advance against the proceeds of the sale of the \$40,000,000 of Public Works Gold Bonds (Bonos Oro de Obras Publicas), which are encumbered only by the loan of \$20,000,000 made by the Chase National Bank, and that the whole of the debt charged upon the Public Works revenues shall not exceed \$100,000,000, for the following reasons:

(1) Even though in one of the bases of this new negotiation 70 per cent of the net proceeds of the sale of the \$40,000,000 is stipulated as guarantee, that being required by the Contractors, yet the Government has the right to apply the whole of the said proceeds to the taking up of the new certificates.

(2) The new issue has been authorized up to \$20,000,000 and it is my desire to endeavor not to carry it to its limit, in order that the balance not used may offset any loss that may occur in the sale of the prior issue.

(3) The anticipated amortization of the 5½ per cent Public Works Series Certificates, for which \$1,000,000 has already been deposited with the Chase National Bank, is being effected and will be continued in accordance with the terms of the contract.

I renew [etc.]

GERARDO MACHADO

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<sup>23</sup> File translation revised.

**THE JOSEPH E. BARLOW CLAIM TO CERTAIN PROPERTY IN CUBA**

*Extract From a Press Release Issued by the Department of State on  
May 9, 1930*<sup>24</sup>

The text of a statement by the Department of State, together with a despatch dated April 21, 1930, from the American Ambassador to Cuba, and a summary of a full report transmitted with the despatch in question regarding the claim of Joseph E. Barlow to certain property in Cuba, follow :

**STATEMENT BY THE DEPARTMENT OF STATE**

The American Ambassador to Cuba has filed with the Department a report on the Joseph E. Barlow claim.

This case involves a claim to possession and title to a certain tract of swamp land, largely undeveloped, in the city of Habana. There are conflicting claims to title and the land has been the subject of litigation in Cuba for over eleven years. The conflicting claims grow out of questions of priority of grant and the meaning of certain conveyances and maps under Cuban law, for Cuban law must govern Cuban titles. The questions are complicated. This Department has not passed and does not now pass on the final merits of the respective claims to title.

The Ambassador's report shows that Mr. Barlow has not exhausted the legal remedies available in Cuba. Such a condition, under international law, must generally speaking be fulfilled before a case between private parties becomes a matter for diplomatic interposition. Mr. Barlow has claimed a right to immediate possession of these lands under a court order obtained in 1917 in an *ex parte* proceeding to which neither the Cuban claimant who disputes Mr. Barlow's possessory right nor his predecessors in title were parties. Such a proceeding, according to an opinion of the Cuban Supreme Court does not constitute proof of possessory rights. The Cuban superior courts consistently refused to recognize this court order as giving Mr. Barlow right to possession.

Mr. Barlow still has legal remedies open to him in Cuba. Mr. Barlow has, however, frequently expressed the belief that the Cuban courts are prejudiced against him for personal reasons. The Department felt that without going into that question his objections on this point could be met by a plan of private arbitration before a neutral tribunal which, though not a part of the Cuban court

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<sup>24</sup> Reprinted from Department of State, *Press Releases*, Weekly Issue No. 32, May 10, 1930, p. 226. The portion of the press release not reprinted here is the despatch of April 21, 1930, from the Ambassador in Cuba, and the summary of the full report transmitted with that despatch.

system, would nevertheless decide the controversy according to Cuban law. Such a plan was prepared by the American Ambassador to Cuba and has been approved by the Department.<sup>35</sup> It was designed to be fair to both parties to the controversy and to expedite the ending of the dispute. Neither Mr. Barlow nor the Cuban title claimant could be forced to arbitrate, nor would the Department take a position to force them. Either may stand on his rights to have the case adjudicated in the Cuban courts, but if both parties should approve the plan of arbitration it would dispose of the controversy expeditiously and finally and more cheaply than could be otherwise done. If the Cuban claimant accepted the arbitration it would show that he had confidence in his ability to support his claim before a neutral tribunal. If Mr. Barlow declined to arbitrate, it would tend to show that he did not desire to proceed in the orderly process which the Department so much commends for the settlement of international difficulties. The Cuban claimant agreed to the arbitration. Mr. Barlow emphatically declined and stated he did not regard the arbitration as fair. The Department differs with him in that regard.

In the present position the Department does not feel that any action in regard to Mr. Barlow's claim would be now appropriate.

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<sup>35</sup> See Department of State, *Press Releases*, Weekly Issue No. 20, February 15, 1930, pp. 61 ff.

# DOMINICAN REPUBLIC

## REVOLUTION IN THE DOMINICAN REPUBLIC<sup>1</sup>

839.00 Revolutions/2 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 24, 1930—8 a. m.

[Received 9 a. m.]

11. Minister for Foreign Affairs came at 6 this morning to request asylum for President<sup>2</sup> and wife and Vice President<sup>3</sup> saying their lives were in danger from revolutionists coming by automobiles from Santiago. I consented reluctantly. Only the wife is here. The President and his party left for fortress.

CURTIS

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839.00 Revolutions/3 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 24, 1930—11 a. m.

[Received 1:30 p. m.]

12. The Vice President has presented his resignation and the Dominican Government promises legislative annulment of all amendments to the electoral law made since 1924. With this information Cabot<sup>4</sup> has gone to endeavor to prevent bloodshed between the revolutionists and the troops sent out to stop them. The retirement of Alfonseca should restore to the Government the firm allegiance of the Government's leaders throughout the country. There is no reliable news from Santiago which is almost certainly in the possession of the revolutionists.

[CURTIS]

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<sup>1</sup> Reports from the Legation in the Dominican Republic for a considerable period preceding the outbreak of the revolution indicated political unrest and the danger of revolutionary disturbances. On February 23 the Legation received definite intimation of the imminence of an outbreak.

<sup>2</sup> Horacio Vásquez.

<sup>3</sup> José Dolores Alfonseca.

<sup>4</sup> John Moors Cabot, Third Secretary of Legation.



839.00 Revolutions/5 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, February 24, 1930—noon.

8. Your 11, February 24, 8 a. m. Who is leading and who are supporting the revolutionists and what action is being taken by Trujillo<sup>5</sup> and the National Army?

COTTON

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839.00 Revolutions/6 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 24, 1930—4 p. m.

[Received 4:40 p. m.]

13. Your February 24, noon. Estrella Ureña, Tonio Jorge appear to be the leaders of the revolution in Santiago but the nephew of the former, Jorge Estrella, seems to be the commander. The National Army and its Commander in Chief are true to the President.

[CURTIS]

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839.00 Revolutions/7 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 24, 1930—11 p. m.

[Received 11:44 p. m.]

14. Revolutionists are advancing upon the city. A naval vessel should be sent here without delay. Cabot has had to proceed to Santiago and has not yet returned.

CURTIS

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839.00 Revolutions/8 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 25, 1930—10 a. m.

[Received 10:50 a. m.]

15. The information contained in my 14, February 24, 11 p. m., although obtained from the Government and acted upon by it, was

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<sup>5</sup> Rafael Leonidas Trujillo Molina, Commander in Chief of the Army.

incorrect; the revolutionists have not advanced but are awaiting result of Cabot's negotiations in Santiago. I am hopeful\*but consider the presence of a war vessel a desirable precaution.

CURTIS

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839.00 Revolutions/12 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 25, 1930—3 p. m.

[Received 4:41 p. m.]

17. Add to leaders named in my February 24, 4 p. m., Elias Brache, Desiderio Arias and a General Perez, presumably Fermin.

CURTIS

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839.00 Revolutions/13 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, February 25, 1930—3 p. m.

9. The Department has not ordered a cruiser sent to Santo Domingo. It has ordered the Navy to place several vessels where they can reach Santo Domingo within a relatively few hours. Certainly until the situation gets such that you anticipate actual danger to American lives or disruption to the customs service or substantial property destruction, we are reluctant to change the existing position.

You will keep the Department fully informed regarding all developments including the attitude and action of the National army and all parties, and particularly the attitude of the combatants, if there be fighting, in regard to foreigners and the existence of animosity toward Americans because of their nationality. The information thus far in the Department's possession does not indicate that it is likely that such animosity will be evidenced. The Department approves of your using your good offices to establish or maintain peaceful relations and hopes you will be successful in preventing a serious conflict.

Should fighting seem imminent, you might deem it wise to suggest the establishment of a new zone where Americans and other non-combatants would be safe.

Your aim should be, if possible, to handle this situation without show of force. If you can do it, it will materially strengthen our position in the Dominican Republic and in the rest of Latin America.

We realize, however, that what we are asking and hoping may not be possible and it is for that reason that we desire to be kept informed as fully as you are able.

COTTON

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839.00 Revolutions/14 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 25, 1930—10 p. m.  
[Received 11 : 59 p. m.]

18. Your February 25, 3 p. m. Both the Government and the Opposition have at all times shown every disposition to respect American lives and property. Nevertheless there has been serious danger of unorganized street fighting and rioting and if this occurs there will be no time for an American warship to come even from a short distance.

Cabot has lately returned with proposals of the leaders of the revolution and there seem to be good prospects of an agreement being reached.

CURTIS

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839.00 Revolutions/16 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 26, 1930—7 a. m.  
[Received 9 : 30 a. m.]

19. Revolutionary forces entered city about 2 hours ago in spite of promise made to Cabot yesterday evening. A sharp quarter minute fusillade and perhaps 100 shots have been heard but moderate quiet prevails.

CURTIS

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839.00 Revolutions/18 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 26, 1930—11 a. m.  
[Received 2 : 45 p. m.]

20. The British Chargé d'Affaires informs me that a small British warship will arrive here within 20 hours.

The commander of the revolutionary forces and the Government civil authorities are showing apparently sincere desire to maintain order but there are great numbers of idle, irresponsible persons in the city and the situation remains delicate. Trujillo is still holding the fortress nominally for the Government.

CURTIS

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839.00 Revolutions/19 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 26, 1930—noon.

[Received 3:10 p. m.]

21. The following basis of agreement was suggested to Cabot by the revolutionary leaders prior to seizure of the Capital:

First. Appointment of a Secretary of the Interior acceptable to both parties.

Second. Reenactment of electoral law of 1924 in accordance with which the President, if a candidate, must resign now.

Third. The Secretary of the Interior as Acting President to name a balanced cabinet.

Fourth. Vasquez may be a candidate for reelection but not Alfonseca.

The Government is prepared to accept these proposals and suggested:

(a) Angel Morales to be Secretary of the Interior.

(b) All arms not in the hands of the national army to be delivered to the new Government and guarantees to be given for maintenance of peace until August 16.

(c) Vasquez will be a candidate.

CURTIS

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839.00 Revolutions/21 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, February 26, 1930—noon.

10. Your 18 and 19.<sup>5a</sup> Your course of action so far as reported is approved. You will receive by telegram sent immediately after this an instruction for you to offer in the name of this Government its good offices in settlement of present difficulties which you will be authorized to show to any individuals with whom you may have communication. Whether or not you deem it wise to use that authority

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<sup>5a</sup> Dated February 25, 10 p. m., and February 26, 7 a. m.

is left entirely to your discretion. If you so use it and show it, you are not authorized to make any formal communication or note to the Dominican Government in this sense. You are not authorized to suggest any United States participation in or even supervision of the elections. The last thing we want is to get in a situation where that would result.

COTTON

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839.00 Revolutions/35 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, February 26, 1930—1 p. m.

11. The Government of the United States has followed with deep concern the present political disturbances in the Dominican Republic. It sincerely hopes that the very marked progress that has been made by the Dominican people in the last few years will not be lost or impaired by civil disturbances at this time. The very clear evidence that the Dominican people have given in recent years of their ability to carry on stable government is the best proof that with good will on all sides the present opposing political parties will be able to work out a satisfactory basis for fair and free elections. The United States Government sincerely hopes that this will be done and has authorized its Minister to be of any assistance which may be welcomed by the Dominican political leaders in attempting to bring about an agreement for the peaceful and orderly arrangement of present difficulties.

COTTON

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839.00 Revolutions/20 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

[Paraphrase]

SANTO DOMINGO, February 26, 1930—2 p. m.  
[Received 5:25 p. m.]

22. In spite of the solemn assurances given to my predecessor<sup>e</sup> and to the authorities, it is now absolutely clear that General Trujillo conspired with the revolutionary leaders and has repeatedly betrayed the Government. For this reason it appears highly desirable that

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<sup>e</sup>Reported in despatch No. 1549, December 25, 1929, from the Minister in the Dominican Republic; not printed (839.00/3340).

General Trujillo be not named on the list of any party. It is furthermore necessary that General Trujillo and Colonel Díaz, who has likewise been unfaithful, be removed from the Army, but this will hardly be accomplished without the assistance of the Legation.

CURTIS

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839.00 Revolutions/22 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

[Paraphrase]

WASHINGTON, February 26, 1930—6 p. m.

12. Your 22, February 26, 1930, 2 p. m. We do not think that the situation has sufficiently developed to give you any instructions. The Department would like to know very completely what the political line-up is before it comes to any decision.

COTTON

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839.00 Revolutions/23 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 27, 1930—9 a. m.

[Received 12:30 p. m.]

23. Your February 26, 6 p. m. The President's adherents are Alfonseca who is resigning; the members of Cabinet of whom most have comparatively little political influence and Moya [who?] is opposed to the President's reelection; Gustavo Díaz; Bonetti Buckhart [Burgos?]; the Rodriguez family of the Eastern Cibao who are now in hiding but may possibly start a counter-revolution when the Vice President has resigned; and the candidates of the National Party as reported in enclosure of my despatch number 14 of February 18,<sup>7</sup> with some exceptions and possibly many in the Cibao from which very little news is obtainable.

The chiefs of the revolution are those named in my telegrams and others less important.

The Provinces of Santiago, Monte Cristi, Espaillat and La Vega are wholly in the hands of the revolution, as are Duarte and [garbled group] except for the forts in their capitals. Disturbances threaten in San Pedro de Macorís.

CURTIS

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<sup>7</sup>Not printed.

839.00 Revolutions/25 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 27, 1930—11 a. m.

[Received February 28—3 : 31 a. m.]

25. The President and General Estrella Ureña met at the Legation this afternoon and agreed upon the following terms:

1. The President will appoint a Secretary of the Interior acceptable to both parties.
2. The Congress shall immediately reenact the electoral law of 1924.
3. The President will sign the law and resign at once.
4. The new President shall appoint a cabinet of the outstanding men representative of all parties.
5. All arms shall be surrendered to the new government.
6. There shall be no restrictions as to candidates, except that neither Alfonsca or Trujillo shall run.
7. The Congress shall pass no law except upon the recommendation of the new President based upon the advice of the Cabinet.
8. Both parties will keep the peace and respect the results of the elections.
9. All [of] the constitutional and legal forms shall be complied with.
10. All [of] the acts of the revolution will be legalized in accordance with the provisions of paragraph 9.

The only point left to be settled tomorrow is that of the person to be appointed Secretary of Interior. General Trujillo having been rejected, Estrella Ureña suggested himself and the President will consult his party leaders before deciding.

The prospects are very encouraging in spite of the danger of serious disorders in this city.

CURTIS

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839.00 Revolutions/27 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, February 27, 1930—noon.

13. Department is advised by British Embassy that sloop *Wistaria* will arrive at Santo Domingo from Dominica probably during the course of today. Department still feels that the situation is not such as to require the presence of a warship and especially that it would be very unwise to land any forces. The landing of forces might well change the situation in a very unfavorable manner by creating hos-

tile feeling against foreigners in general and the nationals of the country landing forces in particular. The Department's information indicates that all sides at the present time are scrupulously respecting all foreign interests. The landing of foreign forces might well provoke a change in this attitude and very much complicate the situation. The British Embassy here has been informed in the above sense and you may also so inform your British colleague.

COTTON

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839.00 Revolutions/24 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Secretary of State*

SANTO DOMINGO, February 27, 1930—3 p. m.

[Received 5:14 p. m.]

24. Estrella Ureña arrived in this city last night. With the Legation as intermediary an armistice has been reached for the Capital, and both sides have accepted in principle the basis of settlement mentioned in my telegram 21 of February 26. It is hoped that final agreement will be reached in the conference to be held this afternoon. Although alarming tendencies have from time to time manifested themselves, the city is quiet and only a few skirmishes have occurred in other sections.

CURTIS

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839.00 Revolutions/28 : Telegram

*The Acting Secretary of State to the Ambassador in Great Britain (Dawes)*

WASHINGTON, February 27, 1930—6 p. m.

43. Revolutionary conditions existing in Santo Domingo do not in our judgment at the present time require presence [of] armed war vessels. We have today telegraphed American Minister at Santo Domingo as follows:

[Here follows text of telegram No. 13, February 27, noon, to the Minister in the Dominican Republic.]

We have informally advised British Embassy here in same sense and suggest you repeat. We fear repercussions here if any British land and under those circumstances would ask from them definition of purpose.

COTTON



839.00 Revolutions/32 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, February 28, 1930—3 p. m.

[Received 7:35 p. m.]

28. [Paraphrase.] At 1 p. m. an agreement was reached between the President and the revolutionists on the basis that Estrella Ureña will be immediately appointed Secretary of the Interior and that the President will leave within a few days for Porto Rico and then resign. The doctors have informed the President that they will not be responsible for his life if he does not immediately cease working and retire abroad where politicians cannot disturb him. The President was, most evidently, suffering greatly yesterday, and he has not left his bed today.

The appointment of the chief of the revolution [to the] agreed-upon post, which will make him the actual Chief of State very soon, is most displeasing to the Legation; but the President and his principal advisers say that Estrella is the only one who can reestablish peace in the Dominican Republic; so I have made no objection to the arrangement though I have pointed out the undesirable precedent that is being established. I trust that my action in the matter is approved by the Department, and that no question of recognition will be raised inasmuch as all legal forms are to be followed. [End paraphrase.]

The Legation has received no report of any injury to American persons or property; loss of life and damage to property seem to have been very small indeed.

CURTIS

839.00 Revolutions/45 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, March 1, 1930—5 p. m.

14. Your 28, February 28, 3 p. m. Inasmuch as all legal forms are to be followed no question of recognition will be raised. This Government will continue to maintain normal friendly diplomatic relations with Señor Estrella Ureña's Government with which it desires to cooperate and to which it desires to extend all proper assistance and support.

COTTON

839.00 Revolutions/48

*The Minister in the Dominican Republic (Curtis) to the Acting  
Secretary of State*

No. 22

SANTO DOMINGO, March 1, 1930.

[Received March 12.]

SIR: I have the honor to refer to my telegram No. 11 of February 24—8 A. M. and to later telegraphic reports concerning the events connected with the revolutionary movement in the Dominican Republic and to report somewhat more extensively, though still inadequately.

The Legation first learned that a revolution had actually broken out when the Secretary for Foreign Affairs, Dr. Peynado, called at the Legation before six o'clock on the morning of February 24 and asked for asylum for President Vasquez and his wife and Vice President Alfonseca; Dr. Peynado said that a revolution had broken out in Santiago de los Caballeros and that twenty-five automobiles full of armed men would arrive within twenty minutes. He insisted that the lives of President and Mrs. Vasquez and of Dr. Alfonseca were in real danger and I consented to give them asylum, but I also urged that I found it difficult to think that there was any danger to the lives of the President and his wife and that it was most desirable that the President should either remain in the Presidential Mansion or take refuge in the fort.

At 7 A. M. the President, his wife, the Vice President, more than half the members of his Cabinet, the Presidents of the Senate and Chamber, and a score of others came to the Legation. In the meantime, I had telephoned to General Trujillo in the fort and had once again received his assurance that he was entirely loyal to the President; when, therefore, the President spoke to me of my recommendation that he go to the fort, I assured him that he could depend on the loyalty of General Trujillo. After discussing the matter further with his companions, President Vasquez left the Legation, followed by all the rest of his party except Mrs. Vasquez,—who spent each night and a smaller or greater part of each day in the Legation until the morning of February 28.

After Mr. Cabot had made a brief visit to the fort in quest of the latest information, I went there with him and sought to ascertain whether the President was prepared to yield to any of the demands mentioned by Mr. Rafael Estrella Ureña and others in Santiago when Mr. Cabot was there on the evening of February 22. While a consultation was being held on this subject, I talked with General

Trujillo, who again assured me of his loyalty to the President, and with Dr. Alfonseca, who said that he was prepared to resign the Vice Presidency at once, without awaiting for the revolutionists to formulate a definite demand for it. It was finally agreed that the Vice President would resign, that the Government would get the Congress to pass a law annulling all the amendments to the Electoral Law of 1924, and that the question of the withdrawal of President Vasquez' candidacy for reelection would be taken under consideration.

Mr. Cabot left at 10:30 for Santiago for the purpose of seeing the leaders of the revolution. At kilometer 34, he found some Government troops and at kilometer 37 a force of revolutionists; from the latter, he learned that Rafael Estrella Ureña was the Supreme Chief of the Revolution; that he was in Santiago and that the military leaders with this force had no authority to consider any political question. Mr. Cabot arranged an armistice between the Government and revolutionary forces and, the lines not yet being cut, telephoned a report to the Legation and obtained my consent that he should proceed to Santiago. After arriving in that city at about 2:30, Mr. Cabot succeeded in seeing Mr. Estrella Ureña and later Gen. Desiderio Arias, but he could obtain no definite statements from them, beyond a promise that they would hold a conference of all the leaders the following morning.

At the Legation nothing of special interest to the Department took place until somewhat late in the evening, although the stream of visitors was practically continuous.

At about 10:30 P. M. Secretary Moya telephoned that the revolutionists were advancing on the city, notwithstanding the agreement made with Mr. Cabot, and that President and Mrs. Vasquez desired to take asylum in the Legation. I said that I would gladly receive Mrs. Vasquez but I persuaded the President that it was to his own best interest to go to the fort rather than to a foreign legation. A little later, I telephoned to General Trujillo and was informed by him that the Government troops had been outflanked and partly surrounded by the much more numerous revolutionary forces and that the latter were advancing as stated above.

When, at six o'clock on the morning of the 25th, no indication had been received of the entry of the revolutionists into the city, I decided to drive out in the direction of their former position. I found the Government forces at kilometer 19 and had a short conversation with their commander, Col. Alfonseca (a distant relative of the Vice President but not known to have any political connection with him). Col. Alfonseca showed me a note signed by Generals José Estrella and Antonio Jorge, stating that they had agreed with Mr. Cabot not to advance or make any attack until Mr. Cabot's return from Santiago and he stated that they had kept this agreement scrupulously.

Various facts concerning the army and its higher officers became known to the Legation at about this time:

General Trujillo, in spite of all the promises he made to my predecessor, was disloyal to President Vasquez from the first moment after his return to the country on January 6. Probably in December, he stripped the fort in Santo Domingo City of practically all spare arms and shipped these arms to the fort in Santiago. He most certainly was in league with the revolutionists from the very beginning and never severed his connection with them. Col. Simón Díaz, the commander of the fort at Santiago, planned to permit the seizure of this fort on the evening of February 8 but, owing to the fact that I happened to spend that evening and night in Santiago, this seizure was postponed; the reasons leading up to Col. Díaz' disloyalty have been reported briefly in despatch No. 21 of February 23, 1930;<sup>a</sup> he was, however, in the City of Santo Domingo at the moment of the seizure of the fort of Santiago. Colonel Alfonseca was placed in command of the troops sent out to prevent the entry of the revolutionists into the capital because President Vasquez insisted that the command be given to him, not at all because General Trujillo desired to give him the command; on the afternoon of the day whose events are now being described, General Trujillo recalled Colonel Alfonseca and placed Col. Díaz in command of this force,—which at least relieved the Legation of any anxiety concerning the possibility of bloodshed between the Government and revolutionary forces.

General Trujillo remained throughout all the period of the revolution the commander of the fort at Santo Domingo, which he held in the name of the Government and to which he did not permit the entry of any revolutionists; he thus kept the letter of the promises which he had repeatedly made to Minister Young and to me, but it is clear that he communicated with the revolutionists constantly.

It is safe to say that if Gen. Trujillo had been truly loyal to the Government, the revolution could not have succeeded,—would probably not have broken out; the quantity of arms in the fort of Santiago would hardly have been worth seizing and certainly the revolutionists would not have had more arms than the Government.

Almost immediately after my return to the Legation, Secretary Moya telephoned that the President was coming to see me, and he arrived a few minutes later. The President was extremely angry concerning the now quite obvious treason of Gen. Trujillo, with whom he had this night found Gen. Luís Felipe Vidal, one of the President's most bitter personal enemies; he declared that, with the Army unfaithful to him, he could not hope to accomplish anything but was resigning immediately. I strongly urged the President not

<sup>a</sup> Not printed.

to take this precipitate action, pointing out to him that, in the present circumstances, this meant the end of any constitutional Government here and probably the outbreak of serious disorders; he was, however, so extremely excited that I could not be certain that he had heard me, though I saw that I had made some impression upon his principal advisers. After an hour and a half of fruitless discussion, the President and his friends left the Legation.

I had not yet been able to sit down to breakfast when Dr. Peynado came from the Presidential Mansion to inform me that General Vasquez had been so impressed by my arguments that he had decided not to resign.

I have related the foregoing incident in some detail in order that the Department may appreciate to some extent the difficulty which the Legation has had to prevent President Vasquez from acting on some sudden impulse and in order that it may understand how much time the Legation had to devote to such matters.

At about five o'clock in the afternoon, Secretary Moya came to the Legation and stated that he had trustworthy information to the effect that the revolutionary troops intended to enter the city during the night, in violation of the promises made to Mr. Cabot. I immediately sent Consul Clark to see Gen. José Estrella and the other commanders of the revolutionary forces and at eight o'clock he returned, Mr. Cabot arriving at almost the same moment.

Mr. Cabot had spent the morning in gathering such information as he could obtain and in trying to hasten the meeting of the revolutionary leaders, which latter took place at about eleven o'clock (a list of those who attended this meeting is transmitted herewith).<sup>9</sup> In the afternoon he had had a long conversation with Rafael Estrella Ureña and Elias Brache, in the course of which he had obtained from them a statement of the demands of the revolution and had obtained some modification of them, so that there might be a possibility of an agreement with the Government being reached. He had then left for the capital but, when he reached the revolutionary forces at kilometer 37, found that preparations were being made for an advance upon the city. He therefore sought out the military leaders, with whom he found Consul Clark, and obtained from them, though not without some difficulty, a renewal of their promise not to advance, this promise to remain in force until word to the contrary should be received from Rafael Estrella Ureña.

At half past nine Vice President Alfonseca and Secretary Moya came to the Legation, where Mr. Cabot explained to them the demands of the revolutionary leaders. After an hour's conversation,

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<sup>9</sup> Not printed.

they declared that these demands were such that an agreement seemed probable and they left with the promise that they would discuss the matter with the President at once and inform the Legation at the earliest possible moment. Mr. Cabot left at once for the revolutionary lines in order to get this information transmitted to Estrella Ureña and a radio message was also sent.

At about 1:30 A. M. on the 26th, Mr. Cabot reported that he had been unable to find any revolutionary [forces?] in the neighborhood of their former lines and that he had no doubt that the revolutionary forces were on their way to enter the city. As this constituted a violation of the promises made by the revolutionary generals, I immediately telephoned this information to Secretary Moya.

At 5 A. M. a number of shots and one short but sharp fusillade were heard and Mr. Cabot arrived at the Legation from his home about half an hour later. He soon left again in search of Gen. José Estrella, whom he brought to the Legation at about seven o'clock.

Gen. Estrella was asked the reason for his violation of his promise and explained that the Government forces had advanced at a certain point and had captured some of his men who were taking up a position; as Col. Días was the Government commander, it was clear that whatever had taken place had been due to collusion, and Gen. Estrella was informed that his explanation was not at all satisfactory. At the same time, assurances were obtained that American lives and property would be respected.

At eight o'clock, the President, accompanied by the Vice President and by Secretary Moya, came to the Legation and said that the proposals of the revolutionary leaders were on the whole satisfactory.

At nine o'clock I attended a conference between the President and Gen. Estrella at the Presidential Mansion. The general promised to maintain order in the city and to open the valves controlling the city's water supply and he guaranteed that no attack would be made on the Presidential Mansion and the small guard always maintained there.

The rest of this day was spent in talks with many people, including the British Chargé d'Affaires (twice), Federico Velázquez H., Secretary Moya and others, and in endeavoring to get into communication with Rafael Estrella Ureña.

At 7:45, Mr. Cabot started out, in accordance with a message which had been received, for the purpose of meeting Estrella Ureña at Villa Altagracia (kilometer 45) and of getting him to hasten his arrival in this city. Mr. Cabot met him at about kilometer 33 and drove with him for some ten kilometers in the direction of the city and obtained his promise that he would come to the Legation in the course of the evening for a preliminary conference; but as Mr. Es-

trella Ureña failed to come to the Legation before 11:30, Mr. Cabot went in search of him in the city and agreed with him that he would come to the Legation at eight o'clock on the following morning.

On the morning of February 27th (Dominican Independence Day), Estrella Ureña and Brache came to the Legation and initiated the long series of conversations which finally resulted in an agreement between the Government and the revolutionaries. I handed to these leaders a written summary of the proposals brought by Mr. Cabot from Santiago, as accepted by the Government, and inquired whether, in accordance with my understanding, this was a satisfactory basis upon which to negotiate. They informed me that they would have to consult the other revolutionary leaders, and would let me know as soon as possible. I expressed my displeasure at the failure of the revolutionary leaders to observe their promise not to enter the city without further orders, and Estrella Ureña said that he had already censured his generals severely. I also requested that permission be granted for Congress to meet that day, in accordance with the Constitution; but this was categorically refused.

Mr. Bickers<sup>10</sup> having come from Puerto Plata with a written truce which he had arranged between the leaders in that city, I obtained orders from both parties that this truce be observed.

A meeting was arranged between Trujillo and Estrella Ureña, in order that the military dispositions necessary to preserve order in the city, and to prevent a clash, might be discussed. Estrella Ureña having threatened to attack the Presidential Mansion, Mr. Cabot under my instructions warned him against such action, and received positive assurances that he would order no such attack.

Upon calling at the Mansion somewhat later, I was greatly surprised to hear that the President had sent his resignation to Congress, and had signed a decree naming Angel Morales Secretary of State for Interior. I convinced the President that a chaotic situation would follow such action, and persuaded him to withdraw both resignation and decree; but inasmuch as the news had already been given to the press, the difficulties of the situation were by no means decreased.

Shortly thereafter Estrella Ureña came to the Legation and said that the revolutionaries had authorized him to negotiate an agreement on the basis which had already been proposed. The President arriving a few minutes later, a most cordial interview ensued, but no definite conclusions were reached.

Arriving somewhat early for a second interview with the President in the Legation, Estrella Ureña inquired respecting the Legation's attitude towards Trujillo, and was informed that the Legation would under no circumstances recommend the recognition of a Government

<sup>10</sup> William A. Bickers, Consul at Puerto Plata.

headed by him. The President upon his arrival announced the Government's acceptance of the proposals for a settlement, and then had a private conference with Estrella Ureña, at which, I later discovered, the question of the nomination of the latter as Acting President was discussed.

The conversations thus initiated were continued during that evening and the next two days. The strain of the revolution had produced a serious turn for the worse in the President's condition, so the interviews were held in the Mansion. The President's vacillations, and the byplay of politics caused repeated changes in the course of the negotiations; but a preliminary agreement was reached on February 28th and a final one on March 2nd. The preliminary agreement provided that the President should depart for Porto Rico, in accordance with the advice of his physicians, on March 4th, and that he should present his resignation some days later; but when after repeated vacillations he asserted that, while ready to resign at any time, he would not go to Porto Rico, it was deemed better that he should resign at once, and this understanding was incorporated in the final agreement. This move appeared advisable for the further reason that the country would remain in unrest until the President's resignation was announced; and Estrella Ureña had already complained of the tendentious manner in which the preliminary agreement had been given to the country.

In accordance with the final agreement, Estrella Ureña was appointed Secretary of State for Interior on February 28th, and on March 2nd the President's and Vice President's resignations were accepted by the Congress. The following day Estrella Ureña, in strict accordance with the constitution and the laws, was inaugurated as President of the Dominican Republic.

The other provisions of the agreement, as finally worked out, are as follows:

1. The congress shall immediately reenact the Electoral Law of 1924.
2. The new President shall appoint a cabinet of outstanding men representative of all parties.
3. All arms shall be surrendered to the new Government.
4. There shall be no restrictions as to candidates, except that neither Alfonsca nor Trujillo shall run.
5. The Congress shall pass no law except upon the recommendation of the new President based upon the advice of the Cabinet.
6. Both parties will keep the peace and respect the results of the elections.
7. All of the legal and constitutional forms shall be complied with.
8. All of the acts of the revolution will be legalized in accordance with the provisions of paragraph 9.



In accordance with the provisions of 2, the new President has tentatively picked the following cabinet:

Interior:	Antonio Alfau (National Party)
Presidency:	Jafet Hernández (Republican)
Foreign Relations:	Elias Brache (Coalition)
Finance:	Martin de Moya (National Party)
Justice:	Agustin Acevedo (Progressive)
National Defense:	Antonio Jorge (Liberal)
Public Works:	Antonio Mota (National Party)
Agriculture:	Leo Ricart (National Party)
Health and Charity:	Dr. Teófilo Hernández (Nationalist)

The composition of this cabinet will be considered in a later report.

Of the two principal causes of the revolution, one was basic, the other immediate. The basic cause was the economic depression now existing in this country; the immediate, the knowledge that the National Army would tacitly assist the revolutionaries.

To these two principal causes a variety of others lent weight and substance. Dr. Alfonseca and his lieutenants had thoroughly alienated the better section of public opinion by their disreputable politics. The country has always opposed the reelection of its chief magistrates, and saw itself gagged and bound to the acceptance of some years more of the Vasquez regime, to be followed by Alfonseca, on account of a grossly unfair electoral law. The country's finances were in a deplorable state, due to maladministration. Speculation on the part of Government officials was rife. Trujillo had been repeatedly treated in a most cavalier fashion by the Government (see the Perez-Petit case, despatch No. 1563, January 13, 1930).<sup>11</sup> Finally, personal ambitions and the country-wide unrest which ever follows periods of tranquillity here played their part.

That the revolution was unjustified is demonstrated by the pronounced success which had attended the Legation's efforts to obtain adequate guarantees of a fair election, through which the great majority of the abuses cited above could have been better rectified. Unfortunately, this success came too late, and only after Estrella Ureña and Trujillo were already in full accord to undertake a revolution.

The probable eventual results of the revolution will be the subject of an attempted analysis in a later report.

It is believed that the Department and the Legation may view with satisfaction the following points respecting the revolution:

1. No injury was done to American lives, property, or interests.
2. There was virtually no bloodshed or property loss.
3. In the ultimate solution, all legal and constitutional forms were strictly and willingly complied with on both sides.

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<sup>1</sup> Not printed.

4. The ultimate solution was reached as a result of a negotiated agreement.

5. Trujillo was blocked in his plan to become Acting President. He may, however, attempt to run for President in the elections, in spite of the terms of the agreement.

6. Friendship for the United States in this country has increased rather than decreased as a result of the revolution. Not only did the United States indulge in no action distasteful to this Republic, but the services of the Legation in preventing bloodshed and acting as mediator in the negotiations have received signal recognition, and the leaders on both sides have expressed their deep appreciation.

On the other hand, two facts are to be deplored :

1. That a revolution ever broke out.

2. That the leader of the revolution should have become President.

The Legation did not object to the latter only because the President and his advisers said that Estrella Ureña was the only man capable of reestablishing peace in the country, and because all legal provisions were complied with.

I have [etc.]

C. B. CURTIS

839.00 Revolutions/47 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, March 4, 1930—7 p. m.

15. We are very much gratified that it has apparently been possible to bring about a peaceful solution of the recent political difficulties in the Dominican Republic and especially that the Legation was able to assist in this solution. You are commended on your success in dealing with this affair.

COTTON

839.00/8355 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

[Paraphrase]

SANTO DOMINGO, March 18, 1930—5 p. m.

[Received 7:06 p. m.]

35. Last night Trujillo and Estrella were formally proposed as the candidates of the Coalition, but the latter, although he had given his consent, has already asked Brache to withdraw his name. Last evening the presidents of the Senate and of the Chamber of Deputies, at the invitation of the President, went to the Presidential Mansion where soldiers sent by Trujillo confiscated the revolvers of their chauff-

feurs, although the latter showed permits signed by the President himself.

This noon I had a very frank and long interview with the President who admitted that the General was dominating him and preventing him from promising real results from the army during the election with the result that these could not possibly be fair. The President asked me to make it publicly known that the Government of the United States would not recognize Trujillo as President in view of the agreement reached through the mediation of the Legation which ended the revolution and he pointed out that any opposition on his part to Trujillo's candidacy would be ascribed by the latter to self-interest.

Unless we can eliminate [Trujillo?], a revolution by or against Trujillo is certain. This cannot be accomplished by the President. Will the Department make any statement on the subject or authorize the Legation to do so? Prompt reply urgently requested.

CURTIS

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839.00/3355 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

[Paraphrase]

WASHINGTON, March 19, 1930—4 p. m.

19. Your 35, March 18, 5 p. m. The Department regrets that it cannot authorize the issuance of the statement which you suggested. We feel that through scrupulously avoiding even the appearance of interfering in the internal affairs of the Dominican Republic our relations with Santo Domingo have been put on a very sound basis in the 6 years since the withdrawal of the military occupation.

Your view that it is most unfortunate that the head of the Army should use that position for his own political advancement and as a means of obtaining the Presidency is concurred in by the Department. The Department would be willing for you to talk personally, confidentially and in the most friendly manner with Trujillo, urging on him as your personal advice the damage which he will do to the political development of the Dominican Republic by being a candidate rather than by using his power to guarantee free and fair elections. The Department feels that if you appeal to Trujillo in a thoroughly friendly and sympathetic way on the basis of the good of the Dominican Republic and the unique opportunity which he holds for the good of his country, he alone can go very far toward putting his country on the road to stability and establishing constitutional government on republican lines. The Department is inclined to feel that your

only chance of success in preventing the candidacy of Trujillo is in a personal appeal in this way and that any duress through a public statement would defeat the ends we are seeking.

While the Department hopes that you will be able to persuade Trujillo not to be a candidate, yet it realizes the great difficulty of bringing it about and should you not succeed and Trujillo be elected it is most important that you should not impair in any way your relations with him. Therefore the Department cannot emphasize too strongly the necessity of making your appeal in a most friendly spirit. For your strictly confidential information the Department desires you to know that it expects to recognize Trujillo or any other person coming into office as a result of the coming elections and will maintain the most friendly relations with him and his Government and will desire to cooperate with him in every proper way.

It is not clear to the Department from your telegrams Nos. 25 and 28 of February 27, 11 a. m., and February 28, 3 p. m., and your despatch No. 22 of March 1, whether the agreement that Trujillo would not be a candidate was an oral or signed agreement and if signed whether Trujillo signed it or gave formal authorization to whomever did sign it to commit him in that way. Please make this clear.

It is the feeling of the Department that you might find it helpful in your talks with Trujillo to have the advantage of the great personal influence over him that the Department understands is exercised by Colonel Richard M. Cutts of the Marine Corps who is now in Haiti. Colonel Cutts was Trujillo's commanding officer and trained him in his present duties, and the Department understands that Trujillo frequently consults him on important matters relating to Trujillo's personal conduct and attitude. Colonel Cutts could drive over in an automobile to the Dominican Republic in a few hours, and the Department has telegraphed General John H. Russell, the American High Commissioner in Haiti, to send Colonel Cutts over if he receives a request from you to that effect. It would be possible for Colonel Cutts to get over without causing any comment by giving some other plausible reason for his coming than to visit Trujillo.

COTTON

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839.00/3355 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

[Paraphrase]

WASHINGTON, March 21, 1930—11 a. m.

20. Supplementing the Department's telegram No. 19, March 19, 4 p. m. After a further study of the situation, the Department is

inclined strongly to feel that the candidacy of Trujillo can best be prevented, if at all, through a personal, friendly, and frank appeal by you to him couched in such terms as not to impair your personal relations. It will probably appear desirable to you to emphasize the point that he has in his present position a marked opportunity to render a patriotic service of the highest order through effecting the maintenance of peaceful conditions and through the assuring of free and fair elections. It might also be helpful to point out that as General in Command he has an influential and an assured position, and one which, from the point of view of his own personal interest, he might, upon further reflection, find it unwise to forsake for political activities with their attendant uncertainties.

COTTON

839.00/3359 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

SANTO DOMINGO, March 21, 1930—noon.

[Received 2:25 p. m.]

37. Your 19, March 19, 4 p. m. Trujillo's office precludes him from being a party to the agreement closing the revolution; but Brache, the director of the political party which has nominated him, agreed to his elimination; the agreement was first written then modified but was not signed and has been violated in many of its details.

[Paraphrase.] In accordance with the Department's suggestion, I requested Colonel Cutts to come here, although there is already a possibility that Trujillo will withdraw his candidacy. [End paraphrase.]

CURTIS

839.00 Presidential Campaigns/8 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting Secretary of State*

[Paraphrase]

SANTO DOMINGO, April 2, 1930—11 a. m.

[Received 5:48 p. m.]

44. The National and Progressive Parties last night formally nominated Velázquez for President and Morales for Vice President.

CURTIS

839.00/3367 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting  
Secretary of State*

SANTO DOMINGO, April 7, 1930—noon.

[Received April 8—1:05 p. m.]

48. The President and the civil authorities appear to be taking all possible steps to maintain order but to have no control whatsoever over the Army and very little over some of the provincial authorities.

The story of Trujillo's interview with Colonel Cutts, at which Rafael Brache was present, has leaked out apparently through telephone operators and has gained wide circulation which only further injured Trujillo's candidacy.

CURTIS

839.00/3377 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Acting  
Secretary of State*

SANTO DOMINGO, April 22, 1930—9 a. m.

[Received 6:45 p. m.]

55. Estrella Ureña as candidate for the Vice Presidency today begins a leave of absence, Jacinto Peynado assuming the duties of the Presidency.<sup>12</sup> Aristy, Secretary of Public Works, takes charge also of the Department of Agriculture, Arias as senatorial candidate having taken leave of absence. Teófilo Hernández has resigned as Secretary of Sanitation to run for the Senate and is succeeded by Dr. Wenceslao Medrano leader of the Independent Labor Party which has rejoined the Confederation.

CURTIS

839.00/3431

*Memorandum by the Assistant Secretary of State (White)*

[WASHINGTON,] April 23, 1930.

The Dominican Minister, Señor Brache, called upon the Acting Secretary of State on Wednesday, April 23. He discussed the polit-

<sup>12</sup> In telegram No. 66, May 22, 10 a. m., the Minister reported that Estrella Ureña resumed the Presidency on May 21 (839.00 Elections/12).

ical situation in the Dominican Republic. He mentioned that the President has retired from office, although not having resigned, in order to become candidate for Vice President during the next term. Certain other members of the Government have likewise retired in order to run for various offices. He mentioned that the ex-Minister, Señor Morales, is candidate for Vice President on the opposition ticket, and Señor Velasquez, the opposition Presidential candidate. General Trujillo is the Government candidate for President.

Mr. Cotton mentioned in this connection that Mr. Curtis had informed the Department that he had expressed to General Trujillo the view that it would be a pity for a man who was head of the army to be candidate for President. He thought that it would be better for the country to have the army nonpartisan and out of politics, and the Department had agreed with Mr. Curtis and felt as he did.

The Minister stated that he felt it a great pity should there be opposition to General Trujillo, as he is a very able man, a good organizer, very clever, and intelligent and honest. General Trujillo has resigned from the Army and is now in private life and would like to try his capabilities out in some other line than Commander of the Army. The Minister mentioned that General Trujillo is a warm friend of the United States and desires especially to cooperate with the Department. He thought that rather than lose the friendship of the Department he would not be a candidate for President. Brache very earnestly supported General Trujillo and hoped the Department would change its position because while no public statement has been made it has become general knowledge that the Department has advised against his running and this would very seriously handicap General Trujillo in his political campaign.

Mr. Cotton stated that he had nothing to add to what had already been said other than that it was on account of the friendly relations existing between many Americans and General Trujillo that we had felt we could talk very frankly to him and explain to him our views in the matter. Mr. Cotton assured Señor Brache there was nothing personal against General Trujillo in this attitude which was merely one of principle and that there was no hidden motive which had not already been explained to him.

Señor Brache made the personal suggestion that General Trujillo might be candidate for Vice President instead of for President. Mr. Cotton said that he had nothing to add to what had already been said. Señor Brache asked if the Department could not help out by some advice or suggestion as to what should be done in the circumstances and Mr. Cotton stated that this Government could not suggest any particular candidates nor in fact add in any way to what and already been said.

839.00 Elections/13

*The Minister in the Dominican Republic (Curtis) to the Secretary of State*

[Extract]

No. 91

SANTO DOMINGO, May 19, 1930.

[Received May 27.]

SIR: Referring to my telegrams Nos. 64 and 65 of 10 A. M. and 8 P. M. yesterday<sup>13</sup> and to previous reports concerning political conditions in the Dominican Republic, I have the honor to confirm my report that there were no disorders during the day of the elections, but that all is by no means quiet here.

The Confederación announces that 223,851 votes were, according to early reports, cast in favor of General Rafael Leonidas Trujillo for President of the Republic and of Rafael Estrella Ureña for Vice President. As the number given greatly exceeds the total number of voters in the country, further comment on the fairness of the elections is hardly necessary; however, there is every reason to believe that, as anticipated by the Legation, the intimidation of the followers of the Opposition had already been so great prior to the day of the elections that none was needed, and it would seem that none was practised, on the day of the elections, in order to keep them away from the polls.

As reported in my telegram No. 63 of May 15—10 A. M.,<sup>14</sup> the leaders of the Alianza announced that that political organization would not go to the polls. . . .

I have [etc.]

C. B. CURTIS

839.00 Revolutions/74

*The Chargé in the Dominican Republic (Cabot) to the Secretary of State*

[Extract]

No. 107

SANTO DOMINGO, June 16, 1930.

[Received June 24.]

SIR: With reference to my telegrams Nos. 70, 71, 73, 74, and 75,<sup>15</sup> I have the honor to inform the Department that the past week has seen the first attempts at revolution against the Government established by the revolution of February; and that, fortunately for the immediate peace of the country, the attempts seem completely to have failed.

<sup>13</sup> Neither printed.<sup>14</sup> Not printed.<sup>15</sup> None printed.



The Department has been repeatedly apprised that the course of events in recent months could scarcely end in anything short of revolution. That an attempt to organize one has not been made earlier is due principally to the overwhelmingly superior military equipment of the Government forces, although the Alianza leaders appear to have made a sincere effort to restrain their followers. These two factors have been largely responsible for the failure of the attempt of this week, inasmuch as both the economic depression and the temper of the people constitute fertile ground for the growth of revolutionary sentiment.

On Sunday night, June eighth, a small group including two of Moya's relatives left La Vega for the bush, having a small shooting affray with the police on the way out. The Government claims that it had known for some time that the Alianza had planned to start trouble on June 10th, but that it had done nothing in the hope that an outbreak would not thus be precipitated. In view of the news from La Vega, the Government on Monday ordered the arrest of a large group of Alianza leaders and the search of many houses. Velázquez, Morales, and Luis Ginebra were already in hiding and could not be found; Moya, Angel Maria Soler and several others were thrown into prison. The following day a large group, including Alfredo Ricart, were arrested; but some, including Ricart were promptly released. Gustavo Diaz, President of the Senate, was permitted to leave for Porto Rico. On June 11th the majority of the persons arrested, including Moya and Soler, were liberated, and most of the rest have since been freed. The only other city in which arrests were made was San Pedro de Macoris.

On Tuesday and Wednesday, June 10th and 11th, it appeared that a considerable revolutionary outbreak might occur. A considerable group left La Romana, apparently under the leadership of Laran-cuent, the Progressive leader in that commune; and in the course of a skirmish on Tuesday morning four men were killed. Disturbances were also reported from Moca, San Juan de la Maguana, and La Campiña (Seybo), but died down as quickly as they had arisen, and in two days all appeared quiet again, although a small band remained in the bush in the Seybo until June 16th. But at this moment a more serious factor entered the situation: the attitude of General Cipriano Bencosme, principal Alianza leader of the Moca region, and an old Horacista war-horse. Bencosme at first adopted an attitude of watchful waiting from the hills above Moca; but when the Government had determined that the price he demanded for his support was too high, it decided to attack him and to end once and for all the constant menace to peace which he constituted. Trujillo attempted to get bombs and field-guns from Haiti; he also asked Wade, an

American aviator at present in this country, to drop bombs on Bencosme's encampment; but failing in all of these efforts, he concentrated 400 men on Moca during the night of June 14th, and prepared an attack for the morning. The latest reports indicate, however, that Bencosme was in no mood to fight, and that he fled to the hills with a small band, without even attempting to defend his farm of Mogote, a natural fortress.

The Alianza had placed great faith in Bencosme, and had apparently concentrated all of their efforts looking to revolution on him, inasmuch as he was supposed to have arms and a following. Bencosme had used his thus-increased prestige to drive a hard bargain with the Government, but he demanded too much, and Trujillo has called his bluff. Bencosme had been one of the most successful leaders in the revolution against Victoria in 1912:<sup>16</sup> but sixty years . . . have apparently sapped his vitality too much to make him longer formidable.

The President informs me that all of these disturbances were a part of a plan for a general revolutionary outbreak, which was to begin June 10th, and he states that Angel Morales was the prime mover in the affair. It appears doubtful, however, whether any of the national leaders of the Alianza were the direct organizers of the outbreak, even though Velázquez and Morales remain in hiding.

The immediate results of these outbreaks and of their suppression appear for the most part good. With the elimination by flight or hiding of many of the national leaders of the opposition, and the apparent ending of the menaces to peace which Bencosme, Laracuente and others constituted, it is probable that the Alianza will not again try its hand at revolution in the near future: . . .

I have [etc.]

JOHN M. CABOT

839.01/1: Telegram

*The Chargé in the Dominican Republic (Cabot) to the  
Secretary of State*

SANTO DOMINGO, July 20, 1930—2 p. m.

[Received July 21—1:20 p. m.]

79. Considerable uneasiness has been occasioned in this city by propaganda maliciously circulated by the Opposition respecting the intentions of the United States with regard to Trujillo. I believe that no good purpose would be served by concealing longer our intention to recognize Trujillo, and it has been intimated to me that the

<sup>16</sup> See *Foreign Relations*, 1912, pp. 340 ff.

Government would deeply appreciate a statement to that effect. I therefore respectfully recommend that he would be [*I should be?*] permitted publicly to state that the Government of the United States has no intention of not recognizing Trujillo.

CABOT

839.01/2 : Telegram

*The Secretary of State to the Chargé in the Dominican Republic  
(Cabot)*

WASHINGTON, July 22, 1930—1 p. m.

31. Legation's 79, July 20, 2 p. m. For such discreet use as you may consider necessary, you are again informed that the Department expects to recognize Señor Trujillo and to maintain the most friendly relations with him and his Government and that it will desire to cooperate with him in all proper ways.

Mr. Curtis will be designated Special Representative of the Government of the United States and will return to Santo Domingo in sufficient time to be present at the inaugural ceremonies.

STIMSON

839.00/3432

*The Chargé in the Dominican Republic (Cabot) to the  
Secretary of State*

[Extract]

No. 140

SANTO DOMINGO, July 26, 1930.

[Received August 5.]

SIR: I have the honor to report that the last week has been characterized by no salient events and that marking time seems to be the order until August 16.

Following the receipt of the Department's telegram No. 31 of July 22—1 P. M., I immediately discussed with Trujillo the most appropriate use which could be made of the information that the American Government would recognize him and would appoint Mr. Curtis special representative for the inaugural ceremonies. Both of us deeming it advisable that the news be published immediately, I gave the information respecting the forthcoming appointment of Mr. Curtis to the press, and pointed out that this indicated the intention of the American Government to recognize Trujillo.

Respectfully yours,

JOHN M. CABOT

839.001 Trujillo, Rafael L./15 : Telegram

*The Acting Secretary of State to the Chargé in the Dominican Republic (Cabot)*

WASHINGTON, August 9, 1930—2 p. m.

34. President has appointed Mr. Curtis, the Minister, as his special representative with the rank of Ambassador Extraordinary and Plenipotentiary to attend the inaugural ceremonies of His Excellency General Trujillo on August 16th. It is not contemplated designating any additional American representation.

CARR

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839.002/133 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Secretary of State*

SANTO DOMINGO, August 17, 1930—10 a. m.

[Received August 18—1:55 p. m.]

93. Rafael Trujillo inaugurated President and Rafael Estrella Ureña Vice President yesterday morning. Following Cabinet appointed:

CURTIS

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### HURRICANE DISASTER

836.48 1930 Hurricane/23 : Telegram

*The Dominican Government to the Dominican Legation at Washington*<sup>17</sup>

[Translation]

SANTO DOMINGO, September 4, 1930.

Your cablegram received. Situation appalling. Cyclone destroyed 90 per cent of this city, with estimated loss of at least thirty millions. Up to the present, eight hundred bodies have been recovered and an immense number injured. We are going on recovering more dead and injured. It is necessary to cremate bodies for lack of time for burials. Families are sheltered in churches, schools and public buildings still habitable. No news from rest of country. Rivers are in high flood. Lack of food is being felt. Families without clothing. Medical supplies insufficient to care for so many injured. We are therefore in need of everything. It is urgent to

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<sup>17</sup> Left at the Department by the Dominican Chargé on September 5, 1930.

communicate this to the American Government; to the representatives of friendly nations in your city, to the American Press, to the Red Cross and to the noble American people.

The National Congress, facing this great catastrophe has passed a law essentially as follows: there are hereby suspended such constitutional guarantees as may be so suspended under the Constitution. The President of the Republic is invested with authority to take such steps whether economic or of any other character, which may be necessary to aid the towns and persons and save property, raise funds on public credit, distribute relief supplies, and in general to do whatever he understands to be demanded under the present circumstances.

Act quickly. Ask the assistance of the Dominican Consuls there. We beg you to sound out the State Department as to their feeling as to the possible necessity of a loan. Communicate text of this to Mr. Gann, Advisor of Legation, in order to have his valuable cooperation.

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836.48 1930 Hurricane/1: Telegram

*The Minister in the Dominican Republic (Curtis) to the Secretary of State*

SANTO DOMINGO, September 4, 1930—9 a. m.

[Received 10: 55 p. m.]

95. City and environs 99 percent destroyed. President agrees with my request that Red Cross rush food, light clothing, shelter, medicines and sanitary unit. Urge sending warship with supplies immediately. No reports yet from interior. Loss of life here appears small.

CURTIS

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836.48 1930 Hurricane/10: Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, September 4, 1930—1 p. m.

38. The Red Cross is ordering Captain Antonio Silva, Manager of its Porto Rico chapter, to report to you immediately and confer regarding relief measures. He will probably be accompanied by several assistants.

The Red Cross has also made available \$15,000 for emergency relief to be expended by you at your discretion. You may draw separate draft upon the Department for this amount and render separate account.

COTTON

836.48 1930 Hurricane/7 : Telegram

*The Acting Secretary of State to the Chargé in Haiti (Grummon)*

WASHINGTON, September 4, 1930—5 p. m.

100. Please report whether the hurricane has hit any portion of Haiti and if so the extent of the damage.

COTTON

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836.48 1930 Hurricane/9 : Telegram

*President Hoover to President Trujillo*

WASHINGTON, September 4, 1930.

I am shocked and grieved to learn of the terrible storm disaster which has wrought such devastation in Santo Domingo and I hasten to send you my own deep sympathy and that of my fellow citizens with your suffering people.

HERBERT HOOVER

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836.48 1930 Hurricane/8 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, September 4, 1930—5 p. m.

39. President has sent message of sympathy to President of Dominican Republic. Express to President and Dominican Red Cross on behalf of American Red Cross heartfelt sympathy for the many sufferers in the storm disaster which has razed the City of Santo Domingo.

COTTON

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836.48 1930 Hurricane/12 : Telegram

*The Chargé in Haiti (Grummon) to the Secretary of State*

PORT-AU-PRINCE, September 5, 1930—noon.

[Received 6:18 p. m.]

193. The Haitian Government has approved a special credit of 100,000 gourdes for relief in Santo Domingo relief work. The Deputy General Receiver has given his accord. Under the direction of the Director General of the Public Health Service, 500 sacks of rice, 250 sacks of flour, 500 sacks of beans, additional medical supplies and stores will be sent to Santo Domingo aboard the *Geneva Lykes*, leaving tomorrow evening. Additional doctors and nurses and medi-

cal supplies will be sent to Santo Domingo by plane this afternoon or tomorrow morning. This message repeated to the Legation at Santo Domingo.

GRUMMON

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836.48 1930 Hurricane/13 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, September 5, 1930—6 p. m.

42. Red Cross has contributed \$25,000 additional for relief for which you may draw separate draft and render special account as in case of previous remittance.

Red Cross suggests that you may wish to form a strong local committee if you have not already done so to assist in relief work and distribution of funds.

The Governor of Porto Rico and the Porto Rican chapter of the Red Cross have formed a purchasing and shipping committee at San Juan and the Red Cross suggests that the services of this committee will be available to you if you wish to use them for purchases in Porto Rico.

The Red Cross has opened relief funds in all of the principal eastern seaboard cities and is receiving contributions.

The Red Cross asks to be informed regarding the personnel of any committee which you may appoint, and also regarding the progress of the relief work and your expenditures from the funds furnished you.

COTTON

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836.48 1930 Hurricane/6 : Telegram

*The Chargé in Haiti (Grummon) to the Secretary of State*

PORT-AU-PRINCE, September 5, 1930—10 p. m.

[Received September 5—2:09 p. m.]

192. Department's telegram No. 100, September 4, 5 p. m. No damage reported from any portion of Haiti. Colonel Cutts has despatched two Marine planes to Santo Domingo with medical supplies, carrying also Charles Moravia as special representative of the President of Haiti.

GRUMMON

836.48 1930 Hurricane/22 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, September 6, 1930—2 p. m.

45. The Red Cross is sending Mr. Ernest J. Swift, Director of Insular and Foreign Operations, to confer with you and with the Red Cross representatives already at Santo Domingo and to make such reports to the head office as may be the basis for any further action by the Red Cross. His functions will be confined to acting in an advisory capacity and to making available to yourself and others who are directing the relief work his very extensive experience in tropical relief work.

Mr. Swift will arrive Monday afternoon via the Pan American Airways.

COTTON

836.48 1930 Hurricane/15 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Secretary of State*

SANTO DOMINGO, September 6, 1930—5 p. m.

[Received 6:45 p. m.]

98. Department's 42, September 5, 6 p. m. Following is local committee: Morgan of City Bank, chairman, Davidson of Electric Company, British Chargé, Haitian Minister, French Chargé, Spanish Chargé, Lopez Aneiro of Porto Rican Colony, self, and Clark ex officio.

Three relief boats off port, another due, and two or more coming Monday. Porto Rican medical unit has landed. River rapidly falling and should be available for landing cargo within twenty-four hours if launches can be obtained. Squadron of planes has just flown over, presumably with medical supplies from Port-au-Prince. Road to Boano opened and roads to Macoris and Azua reported practicable.

CURTIS

836.48 1930 Hurricane/16 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Secretary of State*

SANTO DOMINGO, September 6, 1930—8 p. m.

[Received 6:50 p. m.]

99. My September 6, 5 p. m. Add name Barney Morgan to committee.

CURTIS



836.48 1930 Hurricane/19 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Secretary of State*

SANTO DOMINGO, September 7, 1930—7 p. m.  
[Received 10:20 p. m.]

101. Please inform Red Cross immediately needs are too great to be supplied from adjacent countries. Surgical supplies needed in great quantities. Thousands of large necrotic wounds. Please expedite shipment dressings, antiseptics, etc., from New York.

CURTIS

836.48 1930 Hurricane/24 : Telegram

*The Chargé in Haiti (Grummon) to the Secretary of State*

PORT-AU-PRINCE, September 8, 1930—noon.  
[Received 8:20 p. m.]

194. Reference Legation's telegram 192, September 5, 10 a. m., and 193, September 5, noon. The Haitian Government has sent relief supplies to Santo Domingo on steamship *Margaret Lykes*, services of which were donated by the Lykes Steamship Company. Difficulty has already been experienced by relief ships from Porto Rico in landing supplies at Santo Domingo on account of cliffs and flood in Arrama River. It is hoped, however, to be able to land supplies some time today. The services of two Ford planes were contributed Saturday and have since been transporting medical, surgical and food supplies, water and a field hospital. Marine aviators who have flown over district north of Santo Domingo report destruction area confined to the strip 60 kilometers wide by 80 kilometers long. Santo Domingo [*sic*] and most of fertile region surrounding it only slightly damaged by hurricane, which was deflected by intervening mountains.

General Trujillo sent personal request to Colonel Cutts yesterday for at least 50 marines and as many more as available, to be temporarily assigned to Santo Domingo on any excuse to assist the Dominican Government in relief work. Trujillo's request has been transmitted by Cutts to Marine headquarters.

The Haitian Government has sent a commission of engineers to assist in reopening main highway between the Haitian frontier and Santo Domingo City, in order to facilitate the sending of supplies to stricken area.

Last Saturday General Trujillo requested President Roy to send a detachment of 50 or 100 Haitian guards to Santo Domingo City to assist in rescue work. President Roy, however, agreed that despatch of guards would probably be ineffective and might lead to unfortunate friction. I believe that he has desisted from any intention to send Garde detachment.

Copy of this telegram sent to American Legation at Santo Domingo City.

GRUMMON

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836.48 1930 Hurricane/30 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, September 8, 1930—6 p. m.

46. The Department has learned informally that President Trujillo has made a request of the Navy Department to send fifty (50) marines to help maintain order in the Dominican Republic and, in addition, three hundred (300) rifles and ammunition for same to replace equipment alleged to have been lost during the storm. The Navy Department has been advised that any request of this nature should be made by the Dominican Government to you. Unless you perceive some compelling reason to the contrary, the Department does not believe that it would be desirable to send marines or ammunition to the Dominican Republic.

COTTON

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836.48 1930 Hurricane/32 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Secretary of State*

SANTO DOMINGO, September 9, 1930—noon.

[Received 1:35 p. m.]

104. My 103 September 9, 11 a. m.<sup>18</sup> Dominican Army and police are almost completely demoralized and the moral effect of having 50 marines here would be enormously beneficial. Major W. B. Sullivan who has acted as Navy Department liaison officer states that Trujillo requests me through him to have such detachment sent here. Major Sullivan particularly recommends sending also Captain Thomas E. Watson, United States Marine Corps.

CURTIS

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<sup>18</sup> Not printed.

836.48 1930 Hurricane/34 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, September 9, 1930—1 p. m.

47. Colonel Cutts has informed the Navy Department that Trujillo had made a personal request that a marine officer be assigned as food administrator at Santo Domingo. The Navy is prepared to designate Major Thomas Watson, a personal friend of Trujillo's. Any request of this nature should, of course, be made through you but in this instance in view of the emergency the Department does not wish to insist upon communication through diplomatic channels. It desires, however, to know whether you think Watson's designation would be helpful and advisable, and whether you would rather have him designated as Attaché of the Legation or merely loaned in some other capacity. Please rush reply.

COTTON

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836.48 1930 Hurricane/35 : Telegram

*The Minister in the Dominican Republic (Curtis) to the Secretary of State*

SANTO DOMINGO, September 9, 1930—4 p. m.

[Received 4:56 p. m.]

102. Your September 9, 1 p. m., and my September 9, noon. Please rush Watson here by plane preferably as Attaché of Legation.

CURTIS

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836.48 1930 Hurricane/40 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, September 10, 1930—noon.

48. Your September 9, 11 a. m.,<sup>19</sup> and September 9, noon. The Department is most reluctant to have a marine detachment sent to Santo Domingo and will consent only if you consider their presence absolutely necessary. In any event the Department would have to have a formal definite request from the Dominican Government to you. If you are sure that it is necessary you may explain to the President that this Government is most anxious to help him but

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<sup>19</sup> Not printed.

that the sending of marines will create misunderstanding in other countries. Even if you want them we may not agree to send them.

COTTON

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836.48 1930 Hurricane/41 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, September 10, 1930.

49. Major Watson proceeding on destroyer *Gilmer*, which left Hampton Roads this morning. He will probably arrive at Santo Domingo September 12. He is being designated as Naval Attaché with a view to his assignment as Food Administrator, as requested by the Dominican Republic. Further formal instructions follow.

COTTON

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836.48 1930 Hurricane/75

*President Trujillo to President Hoover*<sup>20</sup>

[Translation]

SANTO DOMINGO, September 20, 1930.

MR. PRESIDENT: I have the honor to address this letter to you in order to fulfil a duty which gives me the greatest satisfaction, namely that of expressing to you in this way,—as it is not possible for me to do so personally because I cannot leave my country under the present circumstances,—the profound and sincere gratitude of my Government and of the whole Dominican people for the efficient aid and timely cooperation and assistance received from the Government and the great people of the United States of America from the first moment of the terrible catastrophe which, on the third of the present month, virtually destroyed this city.

I desire to avail myself of the opportunity to refer especially to Your Excellency's happy thought in sending to me Mr. Ernest J. Swift, Director of Foreign Relations of the American Red Cross, whose very eminent services, rendered with the greatest efficiency, have deserved the most loyal and sincere gratitude of the Dominican Government and people.

Mr. Swift leaves in Santo Domingo an enduring memory of his noble services.

I beg [etc.]

RAFAEL L. TRUJILLO

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<sup>20</sup> Received in the Department of State about October 14.

836.48 1930 Hurricane/76

*President Trujillo to President Hoover*<sup>21</sup>

[Translation]

SANTO DOMINGO, September 20, 1930.

MR. PRESIDENT: I have the honor to address this letter to you in order to render a tribute of deserved recognition and gratitude to a distinguished American for the very eminent services rendered by him to my Government and to the people and the city of Santo Domingo from the first days of the terrible hurricane which devastated this capital and spread desolation and ruin.

I refer to the well-known Dr. Lucius M. Johnson, M. C. U. S. N., who, from the moment of his arrival, gave himself indefatigably to the work of organization and direction, dedicating his recognized capacity and his inexhaustible energy to the work of organizing hospitals, distributing food and assistance, improving sanitary conditions, and clearing away the ruins obstructing the streets of the city, and to whatever was necessary and useful, communicating to everything the impetus of his guidance and his administrative experience.

Dr. Johnson accomplished an extraordinary task in this city and the people of Santo Domingo will never forget his high merits.

I beg [etc.]

RAFAEL L. TRUJILLO

839.51 Wadsworth Mission/1: Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, September 22, 1930—6 p. m.

57. Mr. Eliot Wadsworth, former Assistant Secretary of the Treasury, is being appointed as Special Representative of the President to visit Santo Domingo and after conferring with yourself, the President of the Dominican Republic and others to advise this Government regarding plans of the Dominican Government for the financial rehabilitation of that country, the reconstruction of the City of Santo Domingo, and the reparation of the damage caused in the Dominican Republic by the recent hurricane. He will be accompanied by Joseph F. McGurk of the Latin American Division as assistant and interpreter. He will sail for Santo Domingo on September 25. You will regard this as confidential until it is announced in Washington. A copy of any statement which is given to the press will be promptly cabled to you.

COTTON

<sup>21</sup> Received in the Department of State about October 14.

836.48 1930 Hurricane/56 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, September 24, 1930—4 p. m.

58. Department's 57, September 22, 6 p. m. Mr. Wadsworth sails on the Steamship *Coamo* tomorrow, September 25. He will be accompanied by Mr. McGurk. Please advise President Trujillo of his coming. Reserve best accommodations available for Mr. Wadsworth and McGurk and cooperate fully with him putting all the facilities of the Legation at his disposal even to the expense of the Legation's current work.

COTTON

839.51 Wadsworth Mission/2 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)*

WASHINGTON, September 25, 1930—6 p. m.

59. Department's 57, September 22, 6 p. m. The following transcript of oral remarks made to the press Tuesday by the President has just become available:

"I have asked Mr. Eliot Wadsworth of Boston to proceed at once to San Domingo on a mission for this Government. Now that the emergency work following the major disaster in San Domingo is fully organized and under way, questions of reconstruction of the city of San Domingo and readjustment of San Domingo finances call for careful planning and first-hand knowledge, and I have asked Mr. Wadsworth, after consultation with the Dominican Government, to advise this Government on these subjects in relation to our existing treaties with San Domingo. His experience fits him for that work. He has long been identified with the Red Cross, overseas during the war, and since as a member of its Central Committee. He has also served this Government as Assistant Secretary of the Treasury and in the negotiation of several of our important treaties and conventions."

You may use the above as a basis for answering questions without of course quoting it verbatim.

COTTON

836.48 1930 Hurricane/61 : Telegram

*President Trujillo to President Hoover*<sup>22</sup>

[Translation]

SANTO DOMINGO, September 26, 1930.

I am very grateful to Your Excellency for the encouraging message of sympathy which you sent me on the occasion of the terrible hurricane that scourged this city the third day of this month.

RAFAEL L. TRUJILLO

836.48 1930 Hurricane/77

*President Hoover to President Trujillo*

WASHINGTON, October 30, 1930.

EXCELLENCY: I have received your letter of September 20, in which you express your appreciation, and that of the people of Santo Domingo, for the services rendered by Doctor Lucius M. Johnson of the United States Navy, in the organization and direction of hospitals, the distribution of food, the improvement of sanitary conditions and the performing of other necessary and urgently needed work during the days immediately following the great calamity which recently afflicted your country.

It is a source of gratification to me that the efforts of Doctor Johnson were able to alleviate in some measure the suffering of the inhabitants of Santo Domingo.

I earnestly trust that the more pressing and immediate needs of your stricken people have by now been relieved and that it has been possible to commence the difficult work of reconstruction.

Accept [etc.]

HERBERT HOOVER

836.48 1930 Hurricane/77

*President Hoover to President Trujillo*

WASHINGTON, October 30, 1930.

EXCELLENCY: I have received with pleasure the letter in which you were so good as to express your appreciation and that of the Dominican people for such assistance as the Government and people of the United States were able to render during the catastrophe which recently overtook the city of Santo Domingo.

<sup>22</sup> Received in the Department of State September 29, 1930.

The American people were profoundly moved by the misfortune of the Dominican people. I am happy to know that American assistance was able to relieve in some measure the great suffering caused by the hurricane.

It gives me much satisfaction to learn of the effective aid given by Mr. Swift, the Director of Foreign Relations of the American Red Cross, and I sincerely appreciate the sentiments you express in regard to the services he rendered to the Dominican Government and people on this occasion.

Accept [etc.]

HERBERT HOOVER



## EGYPT

### PROVISIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND EGYPT ACCORDING UNCONDITIONAL MOST-FAVORED-NATION TREATMENT IN CUSTOMS MATTERS, SIGNED MAY 24, 1930<sup>1</sup>

611.8331/14: Telegram

*The Acting Secretary of State to the Minister in Egypt (Gunther)*

WASHINGTON, January 29, 1930—11 a. m.

9. Your despatch 307, December 19.<sup>2</sup> Is the Department correct in understanding that the proposed new tariff provides for a single schedule to which goods of American origin will be subject until February 17, 1931, after which date, failing the conclusion of a commercial convention between the United States and Egypt, goods of American origin would automatically be assessed double the general tariff? Please confirm.

COTTON

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611.8331/17: Telegram

*The Minister in Egypt (Gunther) to the Secretary of State*

CAIRO, January 30, 1930—6 p. m.  
[Received January 30—3:45 p. m.]

18. Your 9, January 29, 11 a. m. According to draft law answer is in the affirmative. Please see articles 3, 4 and 9.<sup>3</sup>

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<sup>1</sup> For correspondence relating to the Egyptian customs regime, see *Foreign Relations*, 1929, vol. II, pp. 955 ff.

<sup>2</sup> Not printed.

<sup>3</sup> Translation of the articles follows:

ART. 3. Independently of the duties in Schedule "A", there is instituted, as a contribution to the State budget, a surtax equal to the amount of these duties which will be collected according to the same conditions as the custom duty itself, but from which will be exempted merchandise originating in countries with which Egypt shall have concluded customs conventions, through application of the provisions of Article 9 of the present law.

Nevertheless, this surtax will not be collected until one year following the coming into effect of the new Tariff.

ART. 4. Exoneration from the surtax provided under the preceding Article, as well as all diminutions of duties established or to be established by reason of the origin of merchandise, will only be granted if this merchandise comes directly from its country of production or by way of countries enjoying in Egypt treatment of the most favored nation.

ART. 9. The Government is authorized to negotiate with foreign governments a reciprocal grant of most-favored-nation treatment.

In oral statement made January 17th to the Legation's Commercial Attaché, Under Secretary of State for Finance said that it was intended to alter this provision in such a manner that double rates could be applied immediately to the goods of countries not according most-favored-nation treatment to goods originating in Egypt.

The Minister of Finance, however, recently told me that, if necessary, time would be extended to two years but that his Government hoped we would be the first to conclude a treaty.

Developments in situation subsequent to those set forth in my despatch 307 were reported in my despatch 313, January 4.<sup>4</sup> I would suggest Department await receipt before instructing me. . . .

GUNTHER

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611.8331/18: Telegram

*The Acting Secretary of State to the Minister in Egypt (Gunther)*

WASHINGTON, February 6, 1930—5 p. m.

12. Your despatch 313, January 4,<sup>5</sup> and telegrams 18, January 30, 6 p. m., and 19, January 31, 5 p. m.<sup>6</sup>

[Paraphrase.] At least for the present, the Department does not desire the question of the possible validity of the Customs Convention of November 16, 1884, between the United States and Egypt,<sup>7</sup> to be raised. [End paraphrase.]

With this in mind do you perceive any objection to informing the Egyptian Government before February 16 somewhat as follows?

"The Government of the United States, while making full reservations with regard to all points that may affect the capitulatory régime, is prepared to consent to the application to American commerce of the import duties provided for in the draft customs law which the Egyptian Government proposes to bring into force as of February 17, 1930. This consent is to be given, however, with the understanding that the Egyptian Government will agree to conclude at an early date a *modus vivendi* according mutual unconditional most favored nation treatment in customs matters for any period that may elapse before a new commercial convention can be brought into force."

It would of course be understood that under the most favored nation provisions of such a *modus vivendi* the first paragraph of Article 3 of the Egyptian draft law would not apply to the commerce of the United States.

Please telegraph your comments.

COTTON

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<sup>4</sup> Neither printed.

<sup>5</sup> Neither printed.

<sup>6</sup> Telegram No. 19 not printed.

<sup>7</sup> Malloy, *Treaties*, 1776-1909, vol. I, p. 442.

611.8331/25 : Telegram

*The Minister in Egypt (Gunther) to the Secretary of State*

CAIRO, February 7, 1930—7 p. m.  
[Received February 7—4 p. m.]

22. Your 12, February 6, 5 p. m. I perceive no objection to informing the Egyptian Government before February 16 as set forth in quoted portion of your telegram.

[Paraphrase.] However, in order that the door may be kept open entirely and believing that, as a matter of record, a written reservation in this case would be preferable to representations orally, may I suggest embodying the penultimate paragraph of your telegram 12 in the note to be addressed by me to the Egyptian Minister for Foreign Affairs prior to February 16 and, furthermore, adding after the words "with the understanding that" (see last sentence of your verbatim communication) a clause to the following effect: [End paraphrase.]

"The proposed tariff will be tentative for a year at least and open to downward revision in the wisdom of the Royal Egyptian Government if practical effects should prove so prejudicial to American interests as to warrant official representations."

I have as yet received no official communication in this matter from the Egyptian Government.

GUNTHER

611.8331/26 : Telegram

*The Minister in Egypt (Gunther) to the Secretary of State*

CAIRO, February 11, 1930—3 p. m.  
[Received February 11—12:50 p. m.]

23. My 22, February 7, 7 p. m. I am just in receipt of an official note from the Minister of Foreign Affairs dated February 10. A translation of the pertinent portions thereof are quoted herewith:

"I have the honor to inform Your Excellency that the Egyptian Government has decided to put into force, from February 17, 1930, to replace the tariff at present applicable by virtue of the protocol of November 16, 1884, denounced as regards the United States of America on February 14, 1929, a new customs tariff the proposed draft of which was published on December 17, 1929. This is a minimum tariff; it will therefore constitute the most favorable regime [, by reciprocity,] which may be granted to goods originating in foreign countries which have concluded customs conventions with Egypt. With respect to the goods of the other countries or imported through them, these will pay a surtax equal to the amount of duty provided

for by the tariff." (See despatch number 145, of February 20, 1929,<sup>8</sup> for Egyptian Government and [*sic*] note above referred to.)

"The Egyptian Government is willing to conclude with the American Government a temporary agreement, stipulating reciprocal granting of most-favored-nation treatment.

In order to show its willingness and to facilitate negotiations in this matter, the Egyptian Government will ask Parliament to authorize, during the first year of the application of the new tariff, temporary exemptions of the surtax provided for with respect to goods from countries which have no conventions with Egypt.

I should be obliged, Mr. Minister, if you would be good enough to transmit this communication to your Government and let me know what decision it has deemed fit to make in regard thereto."

GUNTHER

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611.8331/27 : Telegram

*The Minister in Egypt (Gunther) to the Secretary of State*

CAIRO, February 12, 1930—9 p. m.

[Received February 12—3:40 p. m.]

24. My 23, February 11, 3 p. m. Please see also Commercial Attaché's recent communications.<sup>9</sup> Analysis of revised schedules of rates transmitted with the note of February 10 from the Minister for Foreign Affairs shows that the position of American business interests in Egypt seems to have been clarified and in general favorably met so far as can be judged at this time, except in the case of petroleum products, the Government having failed to take into consideration Vacuum Oil Company's major observations. It is interesting to observe that this exception, which is probably the most important of all those raised by American interests, seems to be the only one in which the Egyptian Government has run directly counter to observations of such interest. Please inform Commerce, and, should it be desired that the revised rates be telegraphed, kindly instruct.

GUNTHER

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611.8331/26 : Telegram

*The Acting Secretary of State to the Minister in Egypt (Gunther)*

WASHINGTON, February 15, 1930—4 p. m.

15. Your 23, February 11, 3 p. m. The Department desires that you deliver to the Egyptian Minister of Foreign Affairs a note substantially as follows:

"I am instructed by my Government to acknowledge the receipt of Your Excellency's note of February 10, 1930, with regard to the

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<sup>8</sup> *Foreign Relations*, 1929, vol. II, p. 955.

<sup>9</sup> Not printed.

intention of the Egyptian Government to put into force, from February 17, 1930, a new customs tariff, the proposed draft of which was published on December 17, 1929. In this connection my Government has noted that the Egyptian Government is willing to conclude with the Government of the United States a temporary agreement according reciprocal most-favored-nation treatment.

I am instructed to inform Your Excellency that the Government of the United States, while making full reservations with regard to all rights enjoyed in Egypt by the United States under treaty, custom and usage, is prepared to consent to the application to American commerce of the import duties provided for in Schedule A of the proposed customs tariff. This consent is given with the understanding that the above duties shall be provisional for one year, during which time the Egyptian Government will be prepared to receive and consider representations regarding the new duties, and with the further understanding that the Egyptian Government will conclude at an early date the suggested *modus vivendi* according mutual unconditional most-favored-nation treatment in customs matters for any period that may intervene after the application of the above duties and before the coming into force of a new commercial convention between the United States and Egypt. It is also understood that goods of American origin from whatever place arriving will upon importation into Egypt, be subject only to the minimum tariff rates."

For your information. The phrase "from whatever place arriving" in the second paragraph above, is inserted in order to assure that goods of American origin shipped via any third country will not be subjected to double duties under the provision of Article 4 of the Egyptian draft law. Such a phrase appears in recent commercial conventions concluded by the United States.

COTTON

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611.8331/32 : Telegram

*The Minister in Egypt (Gunther) to the Secretary of State*

CAIRO, March 19, 1930—4 p. m.  
[Received March 20—9: 15 a. m.]

36. Your 15, February 15, 4 p. m. I am in receipt of a report [*reply?*] in which the Minister for Foreign Affairs, after expressing his pleasure that the American Government is disposed to conclude a *modus vivendi* carrying reciprocal most-favored-nation treatment, states that, under the terms of law number two, 1930<sup>10</sup> which authorize the application of the new Egyptian customs tariff, his Government is authorized to conclude such an accord for a period of time which would not extend beyond February 16, 1931. He encloses drafts of an exchange of notes which he proposes shall be signed to

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<sup>10</sup> See *Journal Officiel du Gouvernement Egyptien*, 57th year, No. 16 (February 15, 1930), p. 1.

this end. Copies and translations of note and annexed drafts will go forward by next pouch.<sup>11</sup> Upon their receipt you will probably wish to instruct me by telegraph.

A ministerial order was published yesterday suspending for 2 further months the collection of the surtax prescribed in Article 2 of the Customs law.<sup>12</sup> I gather that this method of prorogation will be followed from time to time as required.

The Egyptian Government is still disposed to consider the various suggestions on the subject of the new tariff submitted to it by foreign and local commercial interests but the Minister adds significantly that he will not be in a position to negotiate a commercial convention until the final tariff has been definitely set up by law approved by Parliament. It may be that the observation was made because of our Senate's recent action aimed at imports of long staple cotton into the United States and having in view as well any developments affecting Egyptian onion trade.

GUNTHER

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611.8331/34 : Telegram

*The Acting Secretary of State to the Minister in Egypt (Gunter)*

WASHINGTON, April 21, 1930—noon.

29. Your despatch No. 349, March 21.<sup>11</sup>

(1) You may proceed to the conclusion of an agreement by exchange of notes based on the Egyptian formula submitted with the note of March 12 from the Minister for Foreign Affairs, but subject to the following modifications:

(a) In the first sentence of the first paragraph before the word "agreement" insert "provisional commercial" and before the words "most-favored-nation" delete "the" and insert "unconditional."

(b) To clarify the meaning of the second sentence of the first paragraph insert "also" after the word "will."

(c) Delete the word "temporarily" in the second sentence of the first paragraph. Since the entire agreement is intended to be a temporary one it seems unnecessary to provide that one provision thereof should be of temporary duration.

(d) Insert in the second paragraph after the words "this regime is accorded" and after the word "applied" respectively the words "by Egypt", and add to the second paragraph "and with the exception of the treatment which the United States accords or may hereafter accord to the commerce of Cuba or any of the territories or possessions of the United States or the Panama Canal Zone, or the treatment which is or may hereafter be accorded to the commerce of the

<sup>11</sup> Not printed.

<sup>12</sup> A revision of article 3 of the draft law; see footnote 3, p. 740.

United States with any of its territories or possessions or to the commerce of its territories or possessions with one another."

(e) Insert new paragraph after second paragraph as follows "the present arrangement does not apply to prohibitions or restrictions of a sanitary character or designed to protect human, animal or plant life or regulations for the enforcement of police or revenue laws."

(f) Add to the first sentence of the last paragraph "and, subject to the subsequent ratification thereof in accordance with the constitutional procedure of Egypt, shall continue in force until the conclusion of a definitive treaty of commerce and navigation between the United States and Egypt unless sooner terminated by mutual agreement. If, however, either party should be prevented by future action of its legislature from carrying out the terms of the arrangement, the obligations thereof shall thereupon lapse." Delete last sentence of last paragraph of Egyptian draft, that is, the sentence beginning "it may be denounced."

(2) With reference to paragraph (f) above you may explain that it has been the practice of this Government in concluding temporary agreements of this character to include therein a provision whereby such agreement shall lapse if either party is prevented by future action of its legislature from carrying out its terms. It is not the practice of this Government to submit agreements containing a provision of this kind to the Senate for its advice and consent to ratification. Since, however, the Egyptian Government envisages ratification by the competent authorities of that Government the draft provision has been framed accordingly. For similar provision see agreement of December 23, 1925 between the United States and Lithuania (Treaty Series No. 742).<sup>14</sup>

(3) It is hoped that the Egyptian Government can accept the provision contained in paragraph (f) above whereby the agreement would remain in force until a definitive treaty has been concluded. The Department assumes that objection of Egyptian Government to extending duration of agreement beyond February 16, 1931 arises from possibility that before or by that date the Egyptian tariff will be definitely established by law and that the law as finally enacted might conflict with the present agreement. However, if the provision suggested in paragraph (f) above were adopted whereby agreement would lapse if either Party were prevented by act of its legislature from complying therewith, this objection would seem to disappear. You should make every effort, therefore, to obtain acceptance of provision in question but if Egyptian Government is definitely unable to accept it you are authorized to substitute for the words "the conclusion of a definitive treaty of commerce and navigation between the United States and Egypt" the words "90 days after notice of its termination shall have been given by either Party."

<sup>14</sup> *Foreign Relations*, 1925, vol. II, p. 500.

(4) Any proposals for material changes in the text of the agreement as revised in accordance with the above suggestions, should be communicated to the Department with a request for instructions. In the absence of any such proposals you are authorized to sign the agreement with amendments above suggested and such minor changes in form as may be appropriate.

CARR

611.8331/38 : Telegram

*The Minister in Egypt (Gunther) to the Secretary of State*

CAIRO, April 25, 1930—5 p. m.

[Received 5:49 p. m.]

49. Your 29, April 21, noon.

1. In the course of preliminary conversation with Acting Minister of Foreign Affairs and an assistant they stressed the difficulty of accepting preferred alternative first quoted sentence of your paragraph (f) in view of article 6 of the law of February 15. See *Official Journal* number 16, February 15, providing that duration of provisional commercial agreements cannot extend for more than one year from application of new tariff. This law defines the Government's powers when concluding such agreements. The impression was left with me that they would wish the substitute draft quoted in your paragraph 3 providing for 90 days' notice of termination; it was added that should we desire brief directions period 1 or 2 months could be substituted.

2. Your paragraph number 2. With reference to your remarks concerning ratification, it was stated that under article 6 of the law there is no necessity for submission of accord to Parliament in the event that our constitutional practice does not require ratification; it would appear that all mention of ratification may be omitted, e. g., Austrian agreement published *Official Journal* number 30, of March 31; French, Dutch and Japanese agreements<sup>15</sup> similarly omit such reference.

3. Your paragraph (e). The point was made that the Egyptian Government is bound by article 2 of law to use the word "temporarily" and that its use was merely intended [to] indicate that the treatment would be conterminous to the temporary nature of existing legislation.

4. [Paraphrase.] The Egyptian authorities interviewed made no mention of the second quoted sentence of your paragraph (f), but

<sup>15</sup> See exchange of notes constituting a provisional commercial agreement with Austria, League of Nations Treaty Series, vol. c, p. 417; with the Netherlands, *ibid.*, vol. cv, p. 91; with Japan, *ibid.*, vol. cxi, p. 223; with France, *British and Foreign State Papers*, vol. cxxxiii, pt. II, p. 2.



may I respectfully invite attention regarding this sentence to the possible disadvantage should the American legislature impose a duty upon long-staple cotton and should the Egyptian Parliament pass the bill mentioned in my 43, April 18,<sup>18</sup> which would, it is generally believed, render agreement inoperative, subjecting Americans to higher rates of duty without any period of grace. [End paraphrase.]

5. Your paragraphs (*d*) and (*e*). The Acting Minister said that he would take up with the Ministry of Finance the clauses relating commerce with Cuba, et cetera.

6. [Paraphrase.] We concluded the conversation with the understanding that the matter would be discussed further in a few days. Your further instructions will be appreciated. Should you attach especial importance to my obtaining the first-mentioned alternative of paragraph (*f*), may I suggest the use of the confidential code for this part at least of the further instruction. [End paraphrase.]

GUNTHER

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611.8331/38 : Telegram

*The Secretary of State to the Minister in Egypt (Gunther)*

[Paraphrase]

WASHINGTON, May 1, 1930—6 p. m.

32. Your 49, April 25, 5 p. m.

(1) Your paragraphs 1 and 6. Every effort should be made by you to obtain Egyptian acceptance of the provision whereby the agreement would remain in force pending the conclusion of a definitive treaty. However, if, after full discussion of the matter with the Egyptian authorities, you are satisfied that the provision in question is definitely not acceptable, you may agree to the alternative which was indicated in the last sentence of paragraph 3, Department's 29, April 21, noon, including the words "90 days".

(2) Your paragraph 4. The Department notes the considerations mentioned by you and appreciates their importance, but, nevertheless, it is deemed necessary that there be included in the *modus vivendi* the provision whereby the agreement would lapse in case either party should be prevented by the future action of its legislature from the carrying out of its terms.

(3) Your paragraph 2. All reference to the ratification of the agreement may be omitted.

(4) Your paragraph 3. The Department perceives no necessity to include the word "temporarily," but it may be included if the Egyptian Government should insist.

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<sup>18</sup> Not printed.

(5) Your despatch No. 354 of April 5.<sup>17</sup> The Department concurs in the suggestion by you that reference should be made, at the beginning of the agreement, to your note dated February 16 to the Egyptian Minister for Foreign Affairs (a copy of which you enclosed with your despatch No. 338 of February 21<sup>17</sup>).

(6) In the first paragraph of the Egyptian draft (submitted with the note dated March 12 from the Egyptian Minister for Foreign Affairs<sup>18</sup>) substitute "or" for "and" in the phrase "of the soil and of industry".

STIMSON

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611.8331/38

*The Chief of the Division of Near Eastern Affairs (Murray) to the Minister in Egypt (Gunther)*

[Extract]

WASHINGTON, May 5, 1930.

DEAR FRANK: On May 1st we sent you a telegram with regard to the matter of the commercial *modus vivendi* with Egypt. You will have noted from it that the Department was not able to accept your very logical suggestion that there be omitted from the agreement the clause providing for termination if the future action of the legislature of either Party prevented the terms from being carried out. I am sure you are wondering why this clause could not have been left out when there was such an obvious advantage to be gained as that suggested in your telegram of April 25th.

The fact is that such a clause has been inserted in all commercial agreements made by the Department since 1924. It is necessitated by our peculiar tariff system by which rates are determined by the Congress rather than by the Executive, and more especially by the insertion by Congress of certain provisos in the tariff law under which specified goods, including coal, automobiles, lumber, wood pulp and cement, when coming from countries which charge a duty higher than our own, are subjected to similar duties upon their entrance into the United States. Perhaps I can illustrate this more clearly by an example. The American duty on automobiles under the proposed new tariff is 10 per cent; the Egyptian duty on automobiles is 15 per cent. Under the provisions of the tariff act automobiles entering the United States from Egypt would pay, not the usual duty of 10 per cent, but the higher Egyptian duty of 15 per cent. Since automobiles coming from other countries, where the import duty is the same or

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<sup>17</sup> Not printed.

<sup>18</sup> Not printed; see telegram No. 36, March 19, 4 p. m., from the Minister in Egypt, p. 744.

less than our own, would pay only 10 per cent, it is obvious that the treatment which we would be giving Egyptian automobiles would not be that accorded to the most favored nation. It so happens that there are at present no provisions for such countervailing duties on any goods that we might import from Egypt. It is impossible to say, however, that there will not be in the Tariff Bill, if and when finally approved, any provision for countervailing duties on goods that might be brought from Egypt. If such a step were taken by Congress it would be incumbent upon the Treasury Department to collect the higher duty on the products coming from Egypt, and this action would, of course, constitute an infringement of the most-favored-nation treatment. As a result it is probable that Egypt would have a valid claim against this Government. Under the circumstances there appeared to be no choice but to omit [*insert*] the clause in question.

It has been suggested, however, that the mere fact that the Egyptian Parliament passed an act, such as that contemplated, placing a discriminatory duty upon products of American origin, would not release the Egyptian Government from exerting every effort to prevent the final enactment of such legislation which would obviously be contrary to the provisions of the proposed agreement according unconditional most-favored-nation treatment. That is, the Egyptian Executive has agreed to accord American commerce most-favored-nation treatment. If it encouraged or permitted the passage of discriminatory legislation it might be said that it (the Egyptian Executive) had not carried out its agreement in good faith. If, on the other hand, such legislation were passed by the Egyptian Parliament over the veto of the Government, then it could be said in truth that the Egyptian Government had been prevented from carrying out the terms of the agreement by "the action of its legislature." In such a case, the agreement would automatically lapse.

Sincerely yours,

WALLACE MURRAY

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611.8331/39 : Telegram

*The Minister in Egypt (Gunther) to the Secretary of State*

[Paraphrase]

CAIRO, May 6, 1930—6 p. m.

[Received May 6—2:25 p. m.]

52. Your 32, May 1, 6 p. m. I have made every effort to obtain Egyptian acceptance of the provision whereby the agreement would remain in force pending the conclusion of a definitive treaty. However, the Acting Minister for Foreign Affairs, while he admits that the

safeguards as provided in your wording are adequate, nevertheless maintains that the Egyptian Government under the law of February 15 (mentioned in my 49, April 25, 5 p. m.) is without authority to employ your formula. The Government has not done this in any of the 15 agreements hitherto reached, which have all been on the basis of providing 3 months' notice or less. The Minister observed also that departing from the practice thus far followed would lead to protests. To me he stated that the provisional agreements will be allowed to run over in the cases of all countries which do not conclude definitive treaties by next February 17. When I pointed out that this would also appear to be a departure from the law, he responded by saying that it would be more feasible next winter to obtain from Parliament the necessary special authorization.

The Finance Ministry's definite concurrence with the other details of your text has not as yet been obtained by the Acting Minister for Foreign Affairs. He has intimated that, in order to obtain a reference at the beginning of the agreement to my note dated February 16, we would have to consent to a reference also to all other correspondence on the subject.

From his attitude and his repeated inquiries as to cotton, I gather there is a disposition to put off concluding the *modus vivendi* until the American tariff bill is passed. May I furnish the Egyptian authorities with the text of the statistics and the substance of the memorandum enclosed in the Department's instruction No. 106 of April 11,<sup>19</sup> but deleting the least propitious parts of the memorandum?

Since in any case it does not appear likely that the provisional agreement can be concluded until after the holiday ending May 13, there is still time if you wish to instruct me further.

GUNTHER

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611.8331/39 : Telegram

*The Secretary of State to the Minister in Egypt (Gunter)*

[Paraphrase]

WASHINGTON, May 9, 1930—1 p. m.

34. Your 52, May 6, 6 p. m.

(1) Should conclusion of the agreement seem likely to be delayed materially by further insistence upon the provision whereby the agreement would remain in force pending conclusion of a definitive treaty, you should accept the alternative whereby the agreement would remain in force for 90 days after either party shall have given notice of its termination.

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<sup>19</sup> Not printed.

(2) The Department does not perceive any objection to a reference at the beginning of the agreement to other relevant correspondence in addition to your note of February 16.

(3) Regarding the American cotton duty, of course you may, as you think appropriate, make such oral use of the material in the memorandum enclosed with the Department's instruction No. 106, April 11.<sup>20</sup> However, considering the tentative nature of the conclusions therein set forth, it appears advisable to avoid submitting the text, or any written statement which is based thereon, because any such statement might, upon misinterpretation, give rise later to misunderstanding.

STIMSON

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611.8331/41 : Telegram

*The Minister in Egypt (Gunther) to the Secretary of State*

CAIRO, May 15, 1930—4 p. m.

[Received May 15—12: 52 p. m.]

53. In an interview just concluded with Acting Minister of Foreign Affairs he agrees to sign with me provisional commercial agreement embodying complete text of Department's draft with 90 days' alternative (including provisions for termination by mutual agreement or by reason of action of either legislature) except for one phrase to which exception is taken by Ministry of Finance.

Phrase in question is "or regulations for the enforcement of police or revenue laws" (see paragraph (e) of your telegram 29, April 21, noon).

Objection is that, as whole accord is built around most-favored-nation clause, the exception of the regulations in question would appear to be unnecessary unless their aim is to establish for Egyptian imports into the United States a regime which is less favorable than that accorded to at least certain other countries.

To overcome this objection Acting Minister suggests that phrase be deleted unless such explanation as you may furnish me prove satisfactory to the Ministry of Finance. In the latter event he suggests that the phrase be made the subject of a separate exchange of notes providing that Egypt will enjoy most-favored-nation treatment in the application of these "regulations".

Please instruct.

GUNTHER

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<sup>20</sup> Not printed.

611.8331/41 : Telegram

*The Secretary of State to the Minister in Egypt (Gunther)*

WASHINGTON, May 21, 1930—3 p. m.

38. Your 53, May 15, 4 p. m. The phrase in question does not relate to rates of import duty directly, but only to regulations for the enforcement of police or revenue laws, which sometimes may include additional duties as penalties for violation of or attempt to violate such laws. For example, the phrase would insure that the levying of penalty duty on a particular shipment because traders concerned were guilty of undervaluing the merchandise for ad valorem duty purposes would not be regarded as violation of most-favored-nation clause. Phrase in question is standard provision of similar agreements and treaties concluded by the United States.

Accordingly, you may advise Egyptian authorities in writing that there is no intention to establish, by means of the provision in question, for Egyptian imports into the United States a regime less favorable than that accorded to any other country, and that the provision is not designed to permit either country to apply any regulation for the enforcement of police or revenue laws to the trade of the other which would not under like circumstances and conditions also be applied to the trade of any third country.

STIMSON

611.8331/46

*The Minister in Egypt (Gunther) to the Secretary of State*

[Extract]

No. 392

CAIRO, May 26, 1930.

[Received June 19.]

SIR: Confirming my telegram No. 56, May 24, 1 P. M.,<sup>21</sup> informing you that I had on that date concluded, in accordance with your instructions, a Provisional Commercial Accord with the Egyptian Government, I have the honor to enclose herewith a copy of the final Note addressed to me by the Minister for Foreign Affairs, dated May 24, and a copy of my reply of that date establishing the Accord.

I have the honor to enclose as well, in order to complete the record, a copy of the Note which I addressed to the Minister for Foreign Affairs on May 22, 1930, pursuant to your telegram No. 38, of May 21, 3 P. M. in reply to my No. 53, of May 15, 4 P. M. I had that morning discussed this clause with the Minister for Foreign Affairs

<sup>21</sup> Not printed.

and had satisfied him by the information contained in your telegram that there was no further objection to the clause in question. He requested, however, if I saw no objection and in order to complete the file that I confirm the understanding in writing.

I have [etc.]

FRANKLIN MOTT GUNTHER

[Enclosure 1—Translation]

*The Egyptian Minister for Foreign Affairs (Boutros Pasha) to the American Minister (Gunther)*

No. 1.7/3(32)

CAIRO, May 24, 1930.

MR. MINISTER: Referring to correspondence exchanged between Your Excellency and this Ministry with regard to the conclusion of a provisional commercial agreement between the United States of America and Egypt, I have the honor to inform Your Excellency that the Egyptian Government is willing to apply unconditional most favored nation treatment to all products, of the soil and of industry, originating in the United States of America imported into Egypt and destined either for consumption or re-exportation or in transit. The said treatment will also be applied provisionally to products imported into Egypt through countries which have not completed commercial agreements with Egypt.

This régime is accorded by Egypt on condition of perfect reciprocity and with the exception of the régime accorded to Sudanese products, or the régime which might be applied by Egypt to products of certain border countries by virtue of regional conventions and with the exception of the treatment which the United States accords or may hereafter accord to the commerce of Cuba or of any of the territories or possessions of the United States or the Panama Canal Zone or the treatment which is or may hereafter be accorded to the commerce of the United States with any of its territorial boundaries or possessions or to the commerce of its territories or possessions with one another.

The present arrangement does not apply to prohibitions or restrictions of a sanitary character or designed to protect human, animal, or plant life or regulations for the enforcement of police or revenue laws.

The present agreement will enter into force so soon as Your Excellency is good enough to confirm the consent of your Government thereto and shall continue in force until ninety days after notice of its termination shall have been given by either party unless sooner terminated by mutual agreement. If, however, either party should

be prevented by the future action of its Legislature from carrying out the terms of the agreement the obligations thereof shall thereupon lapse.

I avail myself [etc.]

WACYF BOUTROS GHALI

[Enclosure 2]

*The American Minister (Gunther) to the Egyptian Minister for Foreign Affairs (Boutros Pasha)*

No. 230

CAIRO, May 24, 1930.

MR. MINISTER: I have the honor to acknowledge the receipt of Your Excellency's Note No. 1.7/3 (32), of May 24, 1930, the agreed English text of which is as follows:

[Here follows the text of note printed *supra*.]

In reply I have the honor to inform Your Excellency of my Government's acquiescence in the terms of the above mentioned Note thus establishing a Provisional Commercial Accord, and avail myself [etc.]

FRANKLIN MOTT GUNTHER

[Enclosure 3]

*The American Minister (Gunther) to the Egyptian Minister for Foreign Affairs (Boutros Pasha)*

No. 229

CAIRO, May 22, 1930.

EXCELLENCY: With further reference to our conversation of this morning and to the inquiry made of me orally May 15, last, by the Acting Minister for Foreign Affairs, in respect of the phrase "or regulations for the enforcement of police or revenue laws" in my proposed Note embodying our Provisional Commercial Agreement, I have the honor to acquaint Your Excellency that the phrase in question does not relate to rates of import duty directly but only to regulations for the *enforcement* of police or revenue laws which sometimes may include additional duties as penalties for violation of or attempt to violate such laws. For example the phrase would insure that the levying of penalty duty on a particular shipment because traders concerned were guilty of undervaluing the merchandise for ad valorem duty purposes would not be regarded as a violation of the most favored nation clause. The phrase in question is a standard provision of similar agreements and treaties concluded by the Government.

Accordingly, I have no hesitancy in assuring Your Excellency that there is no intention to establish by means of the provision in question for Egyptian imports into the United States a régime less favorable than that accorded to any other country and that the pro-



vision is not designed to permit either country to apply any regulations for the enforcement of police or revenue laws to the trade of the other which would not under like circumstances and conditions also be applied to the trade of any third country.

I avail myself [etc.]

FRANKLIN MOTT GUNTHER

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611.8331/51

*The Secretary of State to the Chargé in Egypt (Wadsworth)*

No. 148

WASHINGTON, August 29, 1930.

SIR: The Department refers to your Legation's despatch No. 415 of June 24, 1930,<sup>22</sup> and to previous correspondence regarding the conclusion of a definitive commercial convention between the United States and Egypt, and now encloses a copy of a draft commercial treaty with Rumania<sup>23</sup> which it is thought might serve as a model for the proposed convention with Egypt.

After you have studied the provisions of the enclosed draft treaty it is desired that you inform the Department promptly of any additions, deletions or changes which you would consider desirable for the purpose of the convention with Egypt. In this connection you should give special consideration to any provisions which might be inserted in order to preserve to this Government the privileges and benefits which it has acquired in Egypt under treaty, custom and usage. To this end you may consider it desirable to consult discreetly with your colleagues of the diplomatic corps with a view to determining the attitude of their Governments with respect to any capitulatory aspects of the treaties of commerce and navigation to be negotiated with the Government of Egypt.

Very truly yours,

For the Secretary of State:  
W. R. CASTLE, JR.

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611.8331/53

*The Minister in Egypt (Jardine) to the Secretary of State*

No. 17

CAIRO, November 26, 1930.

[Received January 2, 1931.]

SIR: I have the honor to acknowledge the receipt of the Department's special written instruction No. 148 of August 29, 1930, enclosing, in the thought that it might serve as a model for a definitive commercial convention between the United States and Egypt, a copy

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<sup>22</sup> Not printed.

<sup>23</sup> Vol. III, p. 793.

of a draft commercial treaty with Rumania. The Legation is directed to study the provisions of this draft treaty, giving special consideration to those which might be inserted in order to preserve to the American Government the privileges and benefits which it has acquired in Egypt under treaty, custom and usage.

Before endeavoring to comply with the Department's wishes I desire to report that a decree-law, No. 45 of 1930, has been published in the *Official Journal* of the Egyptian Government, No. 105 of November 5, 1930, prescribing that:

(Translation): "Article 6 of Law No. 2 of 1930 is modified as follows: 'The Government is authorized to conclude with foreign Governments accords granting most-favored-nation treatment, provided that the duration of such accords shall not exceed two years from the coming into force of the present law.'"

The effect of this decree is to prolong for another year, beginning February 17, 1931, the "provisional tariff regime" made effective by the said Law No. 2 of 1930, copies of which were forwarded to the Department with the Legation's despatch No. 405 of June 16, 1930.<sup>24</sup> This prolongation has, of course, been required by the recent political changes in this country. It was the intention of the Wafd Ministry that there should be considered and passed this fall upon the reconvening of Parliament a definitive tariff law. The dissolution of that body has made such action impossible and present indications are that new parliamentary elections cannot be held before January next at the earliest. The reaction of certain of my colleagues to the present situation and to the law quoted above is that we need not expect to receive from the Egyptian Government any proposals for the conclusion of definitive commercial treaties for at least another year. The Legation will, however, follow this question closely and report further should developments in the situation warrant.

As to the general applicability to Egypt of the text of the United States-Rumanian Treaty of Commerce and Navigation, I have no particular comment to offer at this time. It appears to cover the ground thoroughly but may, as the Department suggests, require certain minor modifications to meet the views of the Egyptian Government, if and when they are expressed. For instance, the Egyptian Government will, if the drafts of its present provisional accords may be taken as a guide, wish to add to Article 13 a sentence to the following effect:

"... Nor does it apply to the regime accorded to Sudanese products or the regime which might be applied by Egypt to products of certain border countries by virtue of regional conventions."

<sup>24</sup> Not printed.

On the question of the insertion of a provision destined to preserve to the American Government the privileges and benefits acquired under treaty, custom and usage, the Department may wish to consider the propriety of suggesting the insertion of a special article, between Articles 13 and 14, to the following effect:

"In the conclusion of the foregoing articles of the present treaty full reservation is made by the United States of America and recognized by Egypt with regard to all rights enjoyed in Egypt by the United States under treaty, custom and usage."

Respectfully yours,

W. M. JARDINE

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INQUIRY WITH RESPECT TO THE SAFEGUARDING OF RELIGIOUS  
LIBERTIES IN EGYPT

883.404/20

*The Acting Secretary of State to the Ambassador in Great Britain*  
(Dawes)

No. 334

WASHINGTON, April 21, 1930.

SIR: There is enclosed a copy of a letter dated March 24, 1930, together with copies of its enclosures, addressed to the American Minister at Cairo by the Egypt Intermission Council.<sup>25</sup> The letter and its enclosures explain the concern of the Council, which represents various American and European Protestant sects, with regard to the future of religious liberty in Egypt. It is believed that a perusal of these documents will indicate clearly the reasons for the Council's anxiety.

Doctor C. R. Watson, President of the American University at Cairo and Chairman of the Intermission Council's Committee on Missions and Government, is now in the United States and on April 17, 1930, he called at the Department to discuss some of the points raised in the enclosed documents. During the course of his conversation Doctor Watson stated that he had been given to understand in Cairo that the British Government would not be averse to receiving an expression of opinion with respect to the question from the Government of the United States. Such an expression of opinion, Doctor Watson understood, would tend to strengthen the hand of the British Foreign Office in any conversations on the subject which it might have with the Egyptian delegation which is now in London negotiating an Anglo-Egyptian Treaty.

It is therefore desired that you seek an early occasion to make oral inquiries of the appropriate British authorities as to whether any

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<sup>25</sup> None printed.

steps are being taken to safeguard religious liberties in Egypt in connection with the new arrangements that are being made between Great Britain and Egypt.

You may add that this Government considers the viewpoint of the Intermission Council in this matter to be reasonable and hopes that at an appropriate time sympathetic consideration may be given to the Council's suggestions.

I am [etc.]

WILBUR J. CARR

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883.404/24

*The Ambassador in Great Britain (Dawes) to the Secretary of State*

No. 866

LONDON, May 5, 1930.

[Received May 14.]

SIR: I have the honor to refer to the Department's instruction No. 334 of April 21, 1930, enclosing a copy of a letter dated March 24, 1930, together with copies of its enclosures, addressed to the American Minister at Cairo by the Egypt Intermission Council, regarding the future of religious liberty in Egypt. In compliance with this instruction, a member of the Embassy staff on May 2 interviewed the Foreign Office official dealing with Egyptian affairs. He explained the anxiety of the Egypt Intermission Council for the cause of religious liberty in Egypt and outlined briefly the various points raised in the Council's letters to Minister Gunther, with particular reference to the Council's assertion that in specific cases where Moslem men or women should desire to change their faith, Sharia law as enforced in Egypt was not in consonance with Articles 12 and 13 of the Egyptian Constitution which provided in the clearest terms for religious liberty. The Embassy official then inquired whether any steps were being taken to safeguard these liberties in Egypt in connection with the Anglo-Egyptian arrangements being discussed at the present time. He added that the United States Government considered the viewpoint of the Intermission Council in this matter to be reasonable and that it hoped that at an appropriate time sympathetic consideration might be given to the Council's suggestion.

The Foreign Office official stated that he was glad to know of the Department's views and that he fully understood the problems facing the missionaries in their work, which were identical with those facing British missionaries in Egypt. He apparently was thoroughly familiar with the specific questions raised in the Council's letters, and referred at once to two of the principal points causing the Council concern, namely, the loss of inheritance rights by Egyptian converts

to Christianity, and the right of a parent or husband to claim the person of an Egyptian woman convert to Christianity. He said that only the other day the representatives of British missionaries in Egypt had conferred with Sir Percy Loraine (the High Commissioner at Cairo, now in London for the Anglo-Egyptian negotiations) and with him on this same general subject. The difficulties in the way of British governmental action at this time had been intimated to the missionaries, and they had suggested that they themselves see the Egyptian Delegation here to present their case, to which plan, he said, Sir Percy Loraine and he agreed. He continued that the Archbishop of Canterbury had interested himself in the matter and that an occasion was being sought by him to discuss the question with Nahas Pasha.<sup>28</sup>

The official stated that the situation, so far as the Foreign Office was concerned, was as follows: The Constitution of Egypt, in Articles 12 and 13, stated that "Liberty of conscience is absolute" and "The State protects, in harmony with usages established in Egypt, the free exercise of any religion or faith, on condition that it is not contrary to public order or good morals"; in short, that the Constitution of Egypt, which is largely based on the Belgian Constitution, gave as many safeguards of religious freedom as any Constitution could or did give. The Government, therefore, could hardly ask, and the Egyptian Government, considering its almost complete dependence on Mohammedan support, could hardly give, more than was contained in the Constitution itself.

It was unfortunate that under Sharia Law injustices to individuals converted to Christianity might have occurred, but, he said, he knew of only two or three cases in the past ten years where female Egyptian converts had been claimed by their elders and married to Moslems. It was equally unfortunate about the alleged loss of inheritance rights of converts, but the Foreign Office official could offer no solution other than that the best to be hoped for was that there would be a gradual evolution toward more enlightened practice. He said that already such an evolution had taken place in the penal and civil codes; for instance, primitive punishments, such as the cutting off of hands, meted out under Mohammedan law, which according to Mohammedan tradition was immutable, had been slowly and quietly done away with in Egypt and more enlightened punishments substituted in accordance with Occidental practice. The same changes were undoubtedly taking place in the civil code in Egypt, and the official hoped that in due course this development would lead in directions favorable to the missionaries' cause. He referred to Lord

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<sup>28</sup> Egyptian Prime Minister.

Robert Cecil's letter in the *Times Weekly Edition* of January 23, 1930 (part of the enclosures to the Department's instruction No. 334) as an endeavor to turn public opinion in Egypt in the right direction, and he particularly stressed the importance of the growing feminist movement in Egypt, which he believed would in time have a decided influence as had occurred in Turkey.

In the Foreign Office official's opinion, however, this evolution would have to be a gradual process, and interference by foreigners, particularly on religious questions, to hasten the matter might have an exactly opposite effect. He felt that no good purpose would be served in the cause of religious liberty in Egypt by endeavoring to interject it into a political agreement such as is now being negotiated. He said that no steps were being taken in the negotiations to safeguard religious liberties further than what was contained in the Egyptian Constitution itself.

I have [etc.]

For the Ambassador:  
RAY ATHERTON  
*Counselor of Embassy*

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883.404/22 : Telegram

*The Secretary of State to the Minister in Egypt (Gunther)*

[Paraphrase]

WASHINGTON, May 12, 1930—4 p. m.

37. Your 44, April 18, 4 p. m., and despatch No. 365, April 22.<sup>27</sup> The Department approves your attitude of discussing with the American missionaries the demonstrations recently at the American University and at the Ezbekieh American Mission.

The missionaries should be informed by you that the United States Government expects them to refrain from such activities as might give rise in Egypt to anti-American feelings. You may point out at the same time that the American Ambassador in Great Britain has been instructed by the Department to make inquiries of the British authorities concerning the steps which are being taken for the safeguarding of religious liberties in Egypt. Under cover of the Department's instruction No. 109 of April 29,<sup>28</sup> there has been sent to you a copy of the instruction directing Ambassador Dawes to take such action.

STIMSON

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<sup>27</sup> Neither printed.

<sup>28</sup> Not printed.

883.404/28

*The Minister in Egypt (Gunther) to the Secretary of State*

No. 406

BULKELEY, RAMLEH, June 16, 1930.

[Received July 14.]

SIR: Adverting to my despatch No. 393, of May 26, 1930,<sup>29</sup> and to the previous extensive file on the subject of religious liberty in Egypt, and the two recent incidents involving converts from Islam, I have the honor now to enclose herewith, in order to demonstrate to the Department the type of fanatical attacks to which our missionary efforts may at any time be subjected, a copy of a translation of an appeal to the electors of Darb-el-Ahmar District of one El Sayed Abdel Hamid El Bakri,<sup>30</sup> alleged to be a direct descendant of Abu Bakr El Seddik and head of the Soufi Sect of Egypt, who is running for the Senate. Incidentally, this El Bakri was heretofore supposed to be on very friendly terms with the American Missionaries and educators and they are surprised that he should have launched such a violent attack.

I have the honor to report that I read to Dr. McClenahan, Acting President of the American University, Cairo, your telegram No. 37, of May 12, informing me *inter alia* that you had instructed the Ambassador in London to make the appropriate enquiries. Naturally I did not, however, mention to Dr. McClenahan the report of the enquiry actually made in response to the Department's instruction by a member of the staff of the London Embassy as reported in its despatch No. 866, of May 5, 1930, in the course of which the Foreign Office official, presumably Mr. Murray, Chief of the African Section, showed his familiarity with the file and especially with the memorandum prepared for the Residency by Judge Booth, the Judicial Advisor, a copy of which I forwarded to Mr. Wallace Murray, in the Department, under cover of my letter of April 8, 1930.<sup>29</sup> I assume, therefore, that the American Missionary interests here may very well be under the impression that the British Government in some manner mentioned to the Egyptian Delegation the question of religious liberty, partly on our initiative and perhaps partly on its own. I am informed, however, by the British High Commissioner, Sir Percy Loraine, who has now returned to Egypt, that the question of religious liberty was never touched upon officially. He added that there were a number of miscellaneous subjects which it had been impossible to take up with the Egyptian Delegation. The High Commissioner referred, however, to the informal and unofficial contact with the

<sup>29</sup> Not printed.<sup>30</sup> Enclosure not printed.

Egyptian Delegation of the Reverend William Paton who, he tells me, finally arranged for the Egyptian Delegation to go to tea with the Archbishop of Canterbury, when presumably the matter was touched upon in a general way.

I am hopeful that due to the effect of time, the return to Egypt of the principal members of the Egyptian Government, the informal steps taken by the Residency and this Legation, notably those taken by the former with Mohamed Mahmoud Pasha and certain newspaper proprietors of the Liberal Constitutional party, the absence of the Missionaries for the most part for the summer respite, and the encouraging decision reported to you in my despatch No. 393, of May 26, 1930, in the case of Dr. Fakhry Mikhail Farrag, that the most threatening aspects of the situation will for the present no longer be apparent.

I have [etc.]

FRANKLIN MOTT GUNTHER



## ETHIOPIA

### REAFFIRMATION BY THE DEPARTMENT OF STATE OF ITS ATTITUDE WITH RESPECT TO THE EXPORTATION OF ARMS TO ETHIOPIA<sup>1</sup>

884.113/43

*The Secretary of State to the Chargé in Ethiopia (Park)*<sup>2</sup>

No. 131

WASHINGTON, June 6, 1930.

SIR: The Department has received the Legation's despatches No. 331 of January 22 and No. 337 of January 27, 1930,<sup>3</sup> concerning the efforts of Mr. George T. Wise to sell arms and ammunition to the Ethiopian Government.

The Department has noted the contents of the enclosures to these two despatches and especially the letters of January 18, 1930, appearing as enclosures two and three of despatch No. 331 of January 22. In the paragraph numbered two of the second enclosure Mr. Wise stated that he would proceed to Paris, and if necessary to London and to Rome, to obtain permission to transship arms at Djibouti. Mr. Wise added that if he did not obtain permission as a result of these visits he proposed to come to Washington to force the issue. In view of this statement it is believed to be desirable to furnish you with information regarding the attitude of the Department with respect to the exportation of arms to Ethiopia.

As early as January 11, 1892, when the Senate of the United States advised and consented to the ratification of the General Act of Brussels of June [July] 2, 1890,<sup>4</sup> the Senate stated that the United States of America, having neither possessions nor protectorates in Africa, disclaimed any intention, in ratifying the treaty, to indicate any interest whatsoever in the possessions or protectorates established or claimed on that continent by other powers, or any approval of the wisdom, expediency or lawfulness thereof, and did not join in any expressions in the said General Act which might be construed as such a declaration or acknowledgment.

<sup>1</sup> For previous correspondence on this subject, see *Foreign Relations*, 1922, vol. II, pp. 110 ff.; and *ibid.*, 1928, vol. II, pp. 799 ff.

<sup>2</sup> Handed to the Minister to Ethiopia, Southard, while on leave of absence in Washington.

<sup>3</sup> Neither printed.

<sup>4</sup> Malloy, *Treaties*, 1776-1909, vol. II, p. 1964. For Senate reservation, see *ibid.*, p. 1991.

Further, in a note of November 6, 1922, to the British Ambassador at Washington,<sup>5</sup> the Department stated that this Government had no disposition to interpose any obstacles to the due performance of the obligations assumed under the General Act signed at Brussels July 2, 1890, by the governments whose territories bordered on Ethiopia. In a subsequent note to the British Ambassador the Department stated that it would not facilitate or encourage the traffic in arms with Ethiopia. The policy declared in these notes to the British Ambassador has been consistently adhered to by the Department in replying to communications from private American concerns interested in the exportation of arms. In these replies, except those relating to the exportation of arms to certain Latin American countries and to China, the Department has stated that while it does not encourage the exportation of arms to any country there are no legal restrictions on the exportation of those commodities to the specific country mentioned by the inquirer. A statement of this general tenor was contained in the Department's instruction No. 27 of November 14, 1928, to Mr. Southard.<sup>6</sup>

It may be added that the Department has not agreed to render Mr. Wise any assistance beyond that which is accorded to any other American citizen in similar circumstances. In October 1927, for instance, when Mr. Wise called and asked that the Department request permission from the French Government for him to transship arms at Djibouti, the Department refused to make the request and indicated that he was at liberty to do so if he desired. In that connection Mr. Wise was told that if the French Government should interpose any objections to the shipment this Government would be entirely free to make such representations on behalf of the American exporter as might be considered appropriate.

On June 12, 1929, a Mr. King, at that time an associate of Mr. Wise, called at the Department and requested some information regarding the exportation of arms to Ethiopia. Mr. King was told that there was no change in the attitude of the Department concerning the matter. Subsequently both Mr. King and Mr. Wise were discouraged in their attempt to export arms to that country.

It will appear from the foregoing brief statement of policy that the Department has not encouraged Mr. Wise or any other American citizen or concern in an effort to export arms and ammunition to Ethiopia.

In paragraph numbered three in the second enclosure to despatch No. 331 of January 22 Mr. Wise stated that the material ordered

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<sup>5</sup> Not printed; see the Department's instruction No. 707, November 7, 1922, to the Ambassador in Great Britain, *Foreign Relations*, 1922, vol. II, p. 113.

<sup>6</sup> *Ibid.*, 1928, vol. II, p. 802.

would be subject to the guarantees required by the United States Government. In this statement Mr. Wise may have had in mind Article 4 of the Convention for the Supervision of the International Trade in Arms and Ammunition, signed at Geneva June 17, 1925,<sup>7</sup> which provides that a permission to export arms shall be signified by a license or by an export declaration. Since the Convention has never been ratified by this Government the obligations imposed by Article 4 cannot be enforced as a matter of law. However, there are no obstacles to obtaining from the Collector of Customs at the port of exportation a certified copy of the export declaration to accompany the shipment if Mr. Wise so desires.

In the third enclosure to despatch No. 331 of January 22 Mr. Wise proposed to "have our military authorities release present United States Army equipment" for exportation to Ethiopia. The only condition under which the War Department can sell military equipment to a foreign government is to declare that a surplus exists of the particular articles desired and then proceed with the sale. The United States War Department has, however, on several occasions declared in letters, of which the Department has copies, that it has no surplus equipment of the nature that the Ethiopian Government desires. It is therefore highly improbable that the War Department at this time could consider any request from Mr. Wise on this subject.

In the last paragraph of the third enclosure Mr. Wise refers to a Major Stack who would be willing to proceed to Ethiopia for the purpose of accepting a commission in the Ethiopian Army to train the military forces of that country. Should an arrangement be concluded between Major Stack and the Ethiopian Government it would be a private agreement between an American citizen and a foreign government in which the Government of the United States could hardly be required to take any part.

Despatch No. 337 of January 27 encloses a copy of a request for quotations of prices and a statement of the conditions under which the articles mentioned are to be delivered on Ethiopian soil. It would appear that this document is only a renewal of the request for bids which Mr. Wise received from Dr. Martin<sup>8</sup> when the latter visited the United States in 1927. It is noted that under the terms of this letter, before the bank in the United States can make any payment for the arms Mr. Wise must submit a permit for the shipment of the arms to a specified city in Ethiopia and a bill of lading, together with a guarantee from the manufacturer that the arms are new and are officially adopted and used by the United States Army. The only one of these conditions which may present any difficulty is the one regarding the

<sup>7</sup> *Foreign Relations*, 1925, vol. I, p. 61.

<sup>8</sup> Dr. W. C. Martin.

permit for transshipment to Ethiopia presumably through Djibouti. It is believed that Mr. Wise would find it less difficult to obtain such a permit if the Ethiopian Government should promptly ratify the treaty relating to the importation of arms into Ethiopia recently signed by representatives of Ethiopia, Great Britain, France and Italy.<sup>9</sup>

The Department has been informed orally by Mr. Southard that he has carefully explained to King Tafari the policy of the Government of the United States with respect to the exportation of arms.

In order to complete the information of the Legation regarding the provisions of international conventions and agreements bearing on the exportation of arms to Ethiopia, there is enclosed a copy of a memorandum on that subject prepared by Mr. K. E. Carlson of the Division of Near Eastern Affairs of the Department.<sup>10</sup>

I am [etc.]

For the Secretary of State:  
J. P. COTTON

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APPLICATION OF ETHIOPIAN LAWS AND DECREES TO AMERICAN  
CITIZENS IN ETHIOPIA

884.631/2

*The Minister in Ethiopia (Southard) to the Secretary of State*

No. 311

ADDIS ABABA, December 26, 1929.

[Received January 31, 1930.]

SIR: I have the honor to refer to Consular Despatch No. 133 of December 14th, 1929, from this office, with which was forwarded an Ethiopian decree for the regulation of certain kinds of mining exploitation.<sup>11</sup>

This decree came up for discussion at the last meeting of the Diplomatic Corps which objects to the provisions which would permit the direct fining of foreigners. The local British, French and Italian Ministers are particularly determined in their opposition to any Ethiopian decree or act which might authorize, as does this one on the subject of mining, the direct imposition on foreigners of fines or other punishment by the Ethiopian Government. Hence, on the basis of principle, the Dean of the Diplomatic Corps, supported by a majority vote of his colleagues, has announced his intention of protesting to King Tafari against the decree. The Diplomatic Corps is of the opinion that such protest must be made to protect the rights gained by for-

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<sup>9</sup> For text of treaty, signed at Paris, August 21, 1930, see *British and Foreign State Papers*, vol. cxxxiv, p. 332.

<sup>10</sup> Dated November 1, 1928; not printed.

<sup>11</sup> Neither printed.

eigners under the French Klobukowsky Treaty of 1908,<sup>12</sup> which treaty has at various times been commented upon in the reports from this office.

I have [etc.]

ADDISON E. SOUTHARD

884.631/3

*The Acting Secretary of State to the Minister in Ethiopia (Southard)*

No. 122

WASHINGTON, February 18, 1930.

SIR: The receipt is acknowledged of your despatch No. 311 of December 26, 1929, with reference to the action of the diplomatic corps in Ethiopia concerning an Ethiopian decree regulating certain types of mining exploitation.

While the situation in Ethiopia is somewhat different from that in other countries in the Near East where the United States enjoys extraterritorial privileges, by reason of the more limited power of American consular courts in Ethiopia, yet reference to the action taken by this Government in another one of the capitulatory countries may be of value to you.

In Morocco, American citizens and *ressortissants* are not amenable to decrees promulgated by the Moroccan authorities unless the consent of this Government to the application of the provisions of those decrees is asked and received. When the consent of this Government is asked to Moroccan laws, it takes particular care not to assume an obstructive position but usually gives its consent to any reasonable regulations promulgated for the benefit of the general welfare of Morocco which bear equally upon all persons resident in Morocco and gives its consent to such decrees with the specific reservations that infractions of such decrees in which American citizens or *ressortissants* are involved shall be referred to the American consular courts for decision. The reason underlying this reservation is not so much to give the American national or *ressortissant* the benefit of specific provisions of American law as it is to prevent the American national or *ressortissant* from being subject to penalties or punishments which are looked upon with disfavor by the American people. If an infraction involving an American national or *ressortissant* should occur and there is a penalty of a generally similar nature imposed by American laws the consular court may use its discretion as to the penalty to be applied.

<sup>12</sup> Treaty of friendship and commerce between Ethiopia and France, signed at Addis Ababa, January 10, 1908; *British and Foreign State Papers*, vol. CI, p. 997.

While the American consular jurisdiction enjoyed in Ethiopia does not permit the exercise of jurisdiction over an American citizen violating Ethiopian law, and American law is applied only where the violation involved the commission of what is generally considered a crime rather than a breach of regulations, yet the system under the treaty does provide that the American consul may sit with the Ethiopian judge in the consideration of the case. If the American consul does not agree with the decision of the Ethiopian judge in such a case, it is understood that the matter is referred to the King whose decision will be final. However, the interests of an American citizen may be protected through diplomatic representation if the decision of the King is considered to amount to a denial of justice.

Under such conditions there would seem to be sufficient protection afforded to American citizens in Ethiopia and, therefore, the mere fact that the consular court can not, of itself, take jurisdiction over American citizens violating Ethiopian law should not necessarily impel the American representative in Ethiopia to protest against the enactment of Ethiopian decrees which are made for the general welfare of residents of Ethiopia, provided they bear on all persons alike and cause no discrimination against an American citizen.

It is thought, therefore, that you may care to take a position which is not calculated to obstruct the endeavors of the Ethiopian Government to enact reasonable laws for the conduct of residents in Ethiopia, and that you would only feel impelled to raise objections if the laws contemplated discriminated against the interests of American citizens or were of such a nature as would provide cruel and unusual punishments such as would shock the sensibilities of the American people.

I am [etc.]

For the Acting Secretary of State:  
G. HOWLAND SHAW



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